CREDIT AVAILABILITY FOR CONDOMINIUM AND COOPERATIVE PURCHASE

103

Y 4. B 22/1: 103-163

Credit Availability for Condominium...

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE

OF THE

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

SEPTEMBER 14, 1994

Printed for the use of the Committee on Banking, Finance and Urban Affairs

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WITNESSES

Wednesday, September 14, 1994

APPENDIX

CREDIT AVAILABILITY FOR CONDOMINIUM AND COOPERATIVE PURCHASES

WEDNESDAY, SEPTEMBER 14, 1994

House of Representatives,
Subcommittee on Consumer Credit and Insurance,
Committee on Banking, Finance and Urban Affairs,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:26 a.m., in the City University of New York, Graduate Center, 33 West 44th Street, New York, NY, Hon. Joseph P. Kennedy [chairman of the subcommittee] presiding.

Present: Chairman Kennedy and Representative Maloney.

Also present: Representative Torricelli.

Chairman Kennedy. The subcommittee will please come to order.

First of all, I want to thank my good friend and colleague, Carolyn Maloney, for inviting myself and the subcommittee up to discuss this important issue that has, unfortunately, developed in the city of New York and the surrounding areas.

I also very much want to thank another great personal friend of mine, Bob Torricelli, who has much of the same problems and difficulties in his district just across the river.

I also want to acknowledge the presence of other fine leaders, Ruth, as well as others, who have joined with us this morning to bring their concerns about the constituents that they represent. So we want to thank all of our witnesses for coming and discussing this important issue.

The fact is that this is an issue that is not just pertinent to New York City. It is an issue that we have faced up in Massachusetts, that homeowners, single-family homeowners have faced in most major States throughout the country. We have seen over the course of the last several years what had taken place in the mid and early 1980's, which was a phenomenal runup in the value of homes. As a result, people, as Ruth just mentioned, were encouraged to go out and purchase homes as a tremendous investment opportunity, and something that really is the basis of the American dream.

What then happened, of course, is, as a result of many different factors, the value of real estate has declined. Along with that decline in the value of real estate, has come a corresponding concern by the shareholders and stockholders in the secondary market of Fannie Mae and Freddie Mac that have on the surface forced these institutions into positions which did not allow for the refinancing of many of the cooperatives and single-family units, as well as other types of real estate across the country.

As a result, we had a situation where people who had made every payment on their house, on their condominium, or on their co-op, were denied access to credit. In addition, there was this other secondary sort of bizarre occurrence where people that had been paying maybe 8, 9, 10 percent and even in some cases 11 percent interest rates on their condominiums and co-ops, could not take advantage of the fact that just in the last year or two we saw the mortgage rate drop significantly. And while one homeowner on one side of an apartment or on one side of the street might be able to refinance, co-op owners and single-family owners on the other side of the street couldn't refinance, even though everybody was making their payments. So there was sort of a double whack that people were facing. And it was just patently unfair.

And it was through the leadership of people like Carolyn Maloney that we were able to convince Fannie Mae over the course of the last few years that this is a situation that they ought to address; that these are institutions—the secondary market was formed to allow home ownership, home ownership to prosper and grow throughout the country.

Banks in many cases are no longer the vehicles that actually provide the credit, but are actually just paperwork passers that end up shipping the loans off to the secondary market, which is backed up by the full faith and credit of the taxpayers of the United States.

There is an unwritten but nevertheless a guarantee that is put in place by the taxpayers of this country that is worth billions of dollars to these institutions, and for the institutions to then only be concerned about the shareholders and stockholders that back them up was, in my opinion, a real misjudgment, one that I think in particular Fannie Mae has begun to address.

I was delighted that as a result of Carolyn Maloney's insistence that we hold this hearing today, that by I suppose a coincidence, Freddie Mac came to grips with a brand new program that was announced earlier this week. I thought it was a little bit interesting that somehow—was it both of our invitations or just my invitation that got lost in the mail in terms of that announcement? I didn't see your name on it, Carolyn, but nevertheless, make no mistake about it, the fact is that a lot of those changes had to do with the tremendous advocacy that has taken place by people like Ruth Messinger, as well as Carolyn Maloney, Bob Torricelli, and others, that have worked very hard on this issue.

I also should mention the efforts made by Chuck Schumer, who is on this subcommittee, and who also has spoken to me about the concerns that he has on the ability of these particular homeowners to get the refinancing and access to credit that they need.

In any event, I at this time want to just acknowledge the fact that we have seen changes take place. It has been far too long. It has created far too many sleepless nights on behalf of homeowners who through no fault of their own and in fact in simply following the encouragement of the Federal Government's policies, went out and purchased their homes, purchased their units, and as a result have been terribly harmed and hurt and have lost tremendous amounts of money.

And I am delighted that some of that is going to now be alleviated, but I think we should very much acknowledge the hard work and advocacy that Carolyn Maloney has put into making this program a reality.

So, Carolyn, on that note, I want to again thank you very much for all the hard work that you have provided to the subcommittee, the hard votes that you have cast, the fact that your constituents yesterday gave you the tremendous boost that I think is a demonstration that when politicians do take tough stands, that the people of this country respect the commitment to a particular ideal that you have voted on constantly in your career in the Congress.

And again, I personally want to thank Bob Torricelli for joining us this morning. He has, again, been someone who makes no bones about taking very controversial stands. This is just one in a long list of issues that he has advocated effectively in the Congress of the United States. So I want to thank Bob for coming, and at this time turn the microphone over to Mrs. Maloney.

Mrs. MALONEY. First of all, I would like to thank Chairman Kennedy for coming to New York for this field hearing on a very important issue. This is the first Federal hearing that we have had in New York City on the problem of credit availability for residential co-ops and condominiums. Today's hearing is especially timely since exactly 48 hours ago, Freddie Mac announced a $650 million program to help provide added liquidity and loans to New York City's co-op housing market.

Once again, it seems to be a coincidence that a change, a positive change, takes place right when Federal oversight and scrutiny is focused on a problem. But we are delighted that this change has taken place and that Fannie Mae had earlier moved with a similar program.

I have a long opening statement on many of the problems of co-ops and condominiums here in New York City, but I really would like to hear from our panel of witnesses. Chairman Kennedy's time is very limited, he must leave by 12:15, so I think we should really get on with the hearing.

[The prepared statement of Mrs. Maloney can be found in the appendix.]

Chairman KENNEDY. Terrific. I also just want to acknowledge before we go on that a fact that someone who is very close to my family, who worked very hard on my father's campaigns when he was a Senator from this State, Fred Ohrenstein, is going to be testifying this morning as well. He continued that relationship in another campaign that actually Carolyn and I worked on in 1980 where we still are wondering exactly where Mr. Torricelli was on that particular effort. Anyway, we will forgive him. We will forgive, but we won't forget.

In any event, I at this point would like to ask Bob Torricelli to come forward, to please make an opening statement.

Mrs. MALONEY. For the record, I would like to mention that Congressman Nadler had wanted to be here. He had an election race last night. And also a member of the subcommittee, Nydia Velazquez, had intended to be here, but I think both are recovering from their primaries last night.

Mr. TORRICELLI. Joe, Carolyn, thank you both very much. Since we are not forgetting the 1980 campaign, I know that Jim Johnson, the Chairman of Fannie Mae and my boss in the Carter reelection campaign in 1980, won't be forgetting either.

Chairman KENNEDY. Neither will we. Isn't it lovely how the tables turn sometimes?

Mr. TORRICELLI. I want to extend my appreciation——

Chairman KENNEDY. Why do you think he created the program, for crying out loud?

Mr. TORRICELLI. Let me thank you both.

As I noted earlier, there are many things that tend to separate New York City from New Jersey. There are many unfortunate difficulties sometimes between our States. This is one where we have evidence that economically and socially we have very common problems. And we, in fact, are indebted to you, Carolyn, and to you, Joe, for beginning this effort. Because without it, I know we would not have gotten enough attention to the problems in my State. And so today we address the problems of financing of two of America's great cities, New York City and, of course, Fort Lee.

Chairman KENNEDY. Is the radio still here or not?

Mr. TORRICELLI. And with me from Fort Lee are Louis Verde, who is a real estate attorney, and Randy Ketive and Charles Oppler, who own a real estate office in Fort Lee, and have had to watch prospective buyers being turned away now for years because of the difficulty of finance.

It is clear, I think, that while New York City may have now had a pilot program with Fannie Mae and recently had a breakthrough with Freddie Mac, and indeed there is going to be an announcement from Fannie Mae in a few weeks to deal with the problems of Fort Lee as well, there is also a larger national problem that needs a comprehensive answer.

In New York, as with my State, many of those dealing with this difficulty have found a series of problems. First, the problem that while values, of course, declined during the 1980's, principally through the collapse of the stock market which led to precipitous declines in real estate values, the underlying values of the apartments that they were financing did not allow for refinance.

The first answer I think that needs to be addressed here is moving from 30 to 40 or 45 percent the values, the underlying values that would allow for refinancing of these apartments.

A second problem in New Jersey that perhaps distinguishes us from the New York City problem is that we have at the moment only four banks that are actually even writing mortgages in co-ops. And each of these tend to be New York City banks. So some of the 20 banks that are writing mortgages in the market in Fort Lee, only 4 are actually involved in these specific types. So while we need, I think, a change to 40 or 45 percent of the pro rata share that would be sufficient for lender participation, that also is not enough.

In our particular case, we need an aggressive training program to get these local banks into the market. The irony of this, of course, is that the people who live in these cooperative apartments are placing their deposits in these same local banks. By law, these local banks are required to provide mortgages to the residents of

these cooperatives. But it is not happening. Their own savings are not being made available to them. And in this case, it is simply a training program.

Statistics are proving that the residents of these cooperatives tend to have the lowest default rates. They are good savers, they are not defaulting on their mortgages. It is simply because the local banks don't understand how to write the mortgages that they are not in place. They don't understand the value of them. And, of course, then ensuring that there is a secondary market by increasing the pro rata share that is available.

Through each of these, we could have—make a real impact on this marketplace. Jim Johnson has assured me that based on their experience in New York, by doing some changes to deal with the specifics of the market in Bergen County, that we can make this announcement to deal with it. We want to begin immediately with Freddie Mac based on their announcement in doing the same thing.

For 8,500 families who live in Fort Lee in cooperative apartments, this can have an enormous impact in increasing the value of their holdings, allowing people to sell cooperative apartments that they no longer need or want, and allowing thousands of other families to take advantage of high quality cooperative buildings that have—that have apartments immediately available to them. And so this is one instance where it is clear we can have an impact and almost immediately are going to have a program to begin to move some of these apartments. And for that, we are indebted to each of you.

I want to personally thank Jim Johnson for the leadership that he has taken in Freddie Mae and without hesitation making this available to us, and hope that through your airing of this issue today we get the same cooperation from Freddie Mac. I thank you.

Chairman KENNEDY. Thank you, Bob.

We want to thank the people from Fort Lee that came with you this morning. I know the squeeze that you are feeling and we appreciate your willingness to come and spend the morning with us.

Bob, I don't know if you have got other things that you have to do this morning, but if you would like to come up and join us, that is fine. If you have other commitments that you have to make, we understand that.

Mr. TORRICELLI. Unfortunately, Joe, I do, but I want to encourage these people that I brought with me from New Jersey, if they could stay as well to hear some of the testimony and how to relate to our individual problems and any of the things we need to do to follow up on this to ensure that Fannie Mae and Freddie Mac understand the uniqueness of our own situation.

Chairman KENNEDY. Terrific. Thank you very much for your testimony.

Now, I would like to call our first panel of witnesses. Our first two witnesses are well known to the people of this city and this State. Ruth Messinger is the Manhattan borough president. As president, she has funded crucial health, literacy, and economic development programs. Before heading the Manhattan borough, President Messinger was a professional social worker and also worked as a teacher and a college administrator. We thank her very much for joining with us this morning.

And, Fred, if you wouldn't mind, we are going to ask——

Ms. MESSINGER. Excuse me, Mr. Chairman, I was a loyal delegate under the leadership of Fred Ohrenstein as well.

Chairman KENNEDY. Thank you very much. Anyway, I think Ruth has a very important conflict that comes up shortly, so if you would be understanding, Fred, maybe we would let Ruth go first.

STATEMENT OF RUTH MESSINGER, PRESIDENT, BOROUGH OF MANHATTAN

Ms. MESSINGER. Thank you very much, Mr. Chairman. I am sorry to ask for the special privilege. Richard Solomon, who was a distinguished trustee of the New York City Public Library and a cousin of mine, the memorial service is across the street in 15 minutes. So I have to be at the library.

I want to, as I said inside, thank you for coming and doing this as a field hearing. It gives not only persons such as myself and Senator Ohrenstein who have dealt with this issue a chance to comment on issues of critical importance to New York City residents, issues important to our co-op and condo owners, issues important to those among our constituents who aspire to home ownership through this route, and issues of real importance to other homeowners and renters who share neighborhood life with owners of co-ops and condos and so are directly affected by these issues, but I would point out it also gives you a chance to hear from people who really are hands on, who are running organizations of co-ops, people who will be on the next panel who I think can really describe to you quite graphically both how beneficial it is to have easy access to credit for persons who wish to own their own homes, even if those homes are apartments, and how threatening it is to the quality of neighborhood life in this city to big issues of equity and to intense personal issues of home stability not to have such easy access to credit.

And I particularly want to thank my good friend and recent winner, my former colleague in the city council, Congresswoman Maloney. She understands the importance of these issues, and more important, she understands the value of bringing policy and lawmakers to the field to see and hear first hand both what the problems are and what the solutions might be.

As we have all said now several times, you have scheduled this hearing to address the issue of availability of credit for residential cooperatives and condominiums. There is no question but that the lack of access to capital for the financing and refinancing of these homes has cast an economic pall over the well-being of thousands of households, hundreds of buildings, and many neighborhoods.

As I said inside, that is particularly distressing when we all recognize how much of an issue has been made in this country of the value of home ownership. And really what has happened is that as that trickled down to large urban areas, as it became a new way of people sort of reaching that dream, credit was initially available and then essentially pulled out from under in a fashion that has discriminated against this form of home ownership in the city and hurt the stability of our larger buildings and residences.

Obviously, New York looks a little different from some neighborhoods in some cities. The density of the urban environment makes

this city unique. But we claim an important history here. We had early public housing. We were as well—as I know you will hear later from Charlie Rappaport, a pioneer in co-op development. We began the conversion of buildings that had been built as rental buildings to cooperative ownership in the 1940's. That was particularly the case then in Manhattan.

But in the 1980's, as the demand for home ownership increased, as owners sought to unload properties that they no longer thought were in their best interests to hold on to, as those owners wanted to cash out of the real estate business, maximize profits, and invest in other sectors of the economy that appeared more lucrative to them, there were a large number of speculative conversions in Manhattan, but also in Queens, Brooklyn, and the Bronx. Some of those were generated from the ground up, or although they might have been generated from the owner, sparked a real interest and response on the part of the tenants. Some of them were more speculative than substantive. And there were problems.

Some owners over-leveraged their buildings with large wraparound mortgages and loans against the unsold shares. You will hear about that, I think, at great length in some of the testimony later, including that from my colleague, Queens borough president, Claire Shulman. She actually dealt with the first wave of this crisis when several large co-ops in Queens began hemorrhaging from sponsor default and abandonment.

She really took a leadership role, as I believe you know because she involved other Members of Congress, other members of your committee, in negotiating legislation that helped to ease some of the burdens and restore some of the benefits. That probably has something to do with the availability of Fannie Mae money.

I certainly share your observation that the scheduling of this hearing probably has a lot to do with the additional pool of Freddie Mac money being available. We want to thank all of the people who have made that happen. It is an important step forward, but it is probably not yet enough. We need more attention to the distressed nature of the real estate market in this city, to the lack of lending from many financial institutions, and the crisis that that has caused for both shareholders and future purchasers.

We hope Freddie Mac and Fannie Mae together will make a big difference in reviving the co-op market here. We are glad that we have their programs and some of the changes in guidelines, but I would urge that you help us go further.

First of all, I would urge that in some fashion your subcommittee, Mr. Chairman, find a formal mechanism that allows you, with our help locally, to track and evaluate these new initiatives to be sure that their results are as intended, that they actually strengthen the lending market and lead to more stable, viable cooperative forms of living. I hope that they will help to expand the list of participating lenders and establish practices that stabilize neighborhoods.

I just want to note before I close that in addition to the importance of the infusion of affordable capital, there are some other supports that are needed as well. There are other laws, regulations, and programs coming from other levels of government, from the private sector, that I think would make a big difference.

I would mention some additional guarantees that protect this city and this State's rent regulations, for which Fred Ohrenstein deserves a great deal of credit, for the rental apartments that are part of so many cooperative buildings, and I would urge, as Congresswoman Maloney did during the press conference, steps being taken on a phased property tax equalization plan that would bring real equity to apartment owners and renters in New York and would recognize that apartment owners are, in fact, homeowners.

We will continue out of the borough president's office to pay attention to a large number of these needs. We count on you to come back here regularly, hold hearings, galvanize policymakers, and produce available pools of money to stabilize our building stock and our neighborhoods.

Thank you.

[The prepared statement of Ms. Messinger can be found in the appendix.]

Chairman KENNEDY. Ruth, thank you very much. We appreciate the comments that you have made, and you can bet that we will be happy to try to follow up on today's hearing. And if there are specific organizations that you feel would be helpful for us to be in touch with, we would be happy to work with you, I am sure. Anyway, we understand that you have got a funeral to attend and appreciate your willingness to come and testify this morning.

Our next witness is Senator Fred Ohrenstein, who has been in the State Senate as a Democratic minority leader since 1975. He is the longest sitting legislative leader in recent New York State history, first elected in 1960.

Fred, you are a legend and we appreciate the fact that you are here with us this morning.

STATEMENT OF SENATOR MANFRED OHRENSTEIN, MINORITY LEADER, NEW YORK STATE SENATE

Mr. OHRENSTEIN. Well, thank you very much, Mr. Chairman. I have to confess to a little bit of personal discomfort. Your kindness in mentioning my role with your family over so many years, I have to tell you, has shaken me up a little bit, because I am about to pass into history as a public official, although not as an active participant in the political and communal life of New York City and the country. But so that one tends to be a little retrospective at times, and your mentioning all of these past associations has created a bit of emotion here. I just—and I want to thank you for that.

I had the great privilege of running for the first time for office with President Kennedy and was elected the same year he was elected, and 4 years later I had, as you already mentioned, the real privilege of campaigning for your father, having him elected to the U.S. Senate from this great State and an office in which he discharged brilliantly, and then running as a delegate for him in 1968 for President, and the history of that we don't need to expand upon. And, of course, you were kind enough to mention a glorious moment in 1980 when so many of us from all over the country fought a brilliant battle for your Uncle Ted for President. We were right then, we are still right.

Chairman KENNEDY. I am not going to disagree with anything you say, Fred.

Mr. OHRENSTEIN. I just want you to know, your copartner in this hearing was an active organizer on the floor of the 1980 Convention. And it was a great moment and I think we accomplished a few things. And at least we laid a few cornerstones.

It is great to have Kennedys back in New York. I apologize for the mixup in names before, but the reason that came about is because your younger brother was just in Albany about a month ago, brilliantly campaigning for the preservation of our water supply here in New York City. We had a—we convened a meeting of about 100 people for him to lay out the dangers to the water supply.

As you know, he is a resident of Westchester County and has made this an incredible—he has exercised incredible leadership in this.

It is funny, here is a guy living in Westchester, campaigning for the purity of the water supply of New York City. But that is characteristic of the Kennedy family. I am sorry to be so expansive on this, but I just can't help it, and I thank you for being here and for saying the nice things that you did.

Chairman KENNEDY. Thank you, Fred. We appreciated the fact that people have been mixing us up for years. Thank you.

Mr. OHRENSTEIN. And Carolyn, thank you for the good work, and as has already been stated, has already had an effect, and thank you for highlighting this problem and for your continuing leadership in this.

I would say that my statement is probably not going to reach the level of eloquence we have reached so far, but this is a rather technical problem, as we all know. And so please bear with me as we go through some of the intricate—intricacies of this problem.

The adequate financing and refinancing opportunities for cooperative housing corporations, co-op shareholders, and condominium owners are vital to preserving and enhancing these important sectors of the affordable housing market.

In New York State, the expansion of affordable housing for all citizens has long been a priority. Throughout the years the State has worked, very often in close partnership with the New York City and Federal Government, to expand the supply of public housing for low-income residents, to advance innovative tax incentive programs for the development of low- and moderate-income rental housing, and to offer greater opportunities for home ownership to all New Yorkers.

New York's laws governing condominium and cooperative housing, combined with a variety of programs administered by the State's housing and mortgage agencies, have contributed tremendously to the goal of expanded home ownership opportunities. As more people have come to have a stake in home ownership, particularly through the growth of condominium and cooperative housing, many buildings have been upgraded and neighborhoods have been revitalized. These and other positive results of our affordable housing efforts are of great benefit to all of us.

I would say in these days when we hear so much talk from some people that you work with who are of a different—in Washington, who are of a different political persuasion, the long and ongoing relationship between the Democratic programs and policies in favor of the middle class and affordable housing for moderate- and mid-

dle-income housing is something that needs to be restated often, early and often.

That is why it is so important to ensure the viability of condominium and cooperative housing, with the latter, I might add, a form of home ownership that is little known and understood outside of New York. This may explain, in part, why some lending institutions have been reluctant to provide loans for people who are seeking to buy into cooperatives, or to approve refinancing for underlying cooperative mortgages. Lending institutions fear defaults by cooperative sponsors and buildings where the owner occupancy rate is relatively low, and are hesitant to provide credit for shareholder loan refinancing or new purchase in the instances where building mortgages—where a building mortgage is facing the end of the term. Often, the end of the term brings with it a large final balloon payment, an expense that might ultimately prove unmanageable to the cooperative.

These instabilities in the co-op market, in many cases related to the real estate excess of the 1980's, have precipitated the current credit crunch, making it difficult for our cooperative housing cooperations, shareholders, and potential co-op buyers to obtain necessary credit. On the State level, particularly through SONYMA, New York's mortgage agency, we are taking positive action to address these issues. But we still need help from the Federal mortgage agencies to ensure the viability of New York's co-op market. And that is why we are here today.

Some progress has been made. In late 1993, Fannie Mae issued new liberalized lending guidelines for co-ops in New York City, making it easier for potential buyers and shareholders to finance and refinance co-op loans. These guidelines, for example, enable a lender to write a loan for a building where only 51 percent of the units have sold—have been sold to owner-occupiers. The previous requirement was at least 80 percent. Other changes provided lenders with the go-ahead to make loans in buildings with minor cashflow problems, and clarified that units temporarily rented out by co-op shareholders would continue to be counted as owner-occupied for financing purposes. While Fannie Mae's liberalized co-op lending rules are only guidelines and continue to provide individual lenders with a great deal of discretion in approving and disapproving loans, they are still a step in the right direction.

In addition, as I am sure you are aware, Freddie Mac announced, as this was written before your announcement today, announced a $650 million pilot project this week to provide new New York coop financing opportunities for New Yorkers. This program, which also eases lending requirements, is a welcome shot in the arm for potential co-op buyers and shareholders seeking to refinance their loans. For example, past rules required 65 percent of the building's units to be owner-occupied to qualify for financing; this program sets a minimum requirement of 51 percent, a considerable improvement.

However, while these actions represent progress in combating the lack of credit, it has been suggested that both Fannie Mae and Freddie Mac would be even—could be even more responsive in addressing New York's co-op financing needs and more active in providing a secondary market for co-op loans, particularly with regard

to the underlying building mortgages. In the long term, neither agency has been overly aggressive in reaching out to the New York co-op market, and there is concern that at least one recent court case has had a chilling effect on their loan purchasing activity.

In a June 1994 case, concerning the status of cooperators who lost their proprietary leases when their Brooklyn co-op went bankrupt, Freddie Mac, which held the mortgage on the building, sought a declaration from the court that once a building is taken out of rent regulation, through conversion to cooperative or condominium ownership, it is permanently unregulated. However, fortunately, the district judge, Leo Glasser, Federal District Judge Leo Glasser, citing New York City's administrative code, ruled that the units be returned to rent stabilization. This decision, obviously, was received unenthusiastically by a mortgage corporation seeking to protect the value of its investment in the building. But I hope it will not prove to be an impediment to expanded New York involvement by Freddie Mac and Fannie Mae.

I think it is somewhat inappropriate for a government mortgage agency whose programmatic purpose is to help the affordable housing market to get itself involved in the kind of touchy issues such as rent control and rent stabilization. And they seem to be an even more onerous mortgage holder than some of the private institutions. So I think, hopefully, this court decision has had somewhat of an ameliorating effect on their attitudes. Their full participation is vital to the viability of the co-op market and to the success of New York's ongoing efforts to increase home ownership and opportunities.

As I indicated earlier, New York State has already taken some positive steps to address the shortage of adequate co-op financing and refinancing opportunities. The New York State Legislature enacted a law this year to enable SONYMA to provide mortgage insurance for underlying building loans in cooperatives, and so on and so forth. So New York State has been a very active participant in this, in partnership with the Federal Government.

While there is still work to be done, it is clear that New York State has already taken aggressive action through loan and insurance programs to address financing barriers in the co-op market. But New York State on its own cannot provide answers to all of the complex issues that have led up to today's credit crunch. The best and most far-reaching solutions to the liquidity problems we face will only be achieved through a solid cooperative government and private sector partnership involving the city, State, and Federal governments and the lending industry. I urge the subcommittee to prevail upon Fannie Mae and Freddie Mac to assume an even larger role in this effort. Thank you very much.

[The prepared statement of Mr. Ohrenstein can be found in the appendix.]

Chairman KENNEDY. Thank you very much.

We appreciate the efforts that you have made on behalf of your constituents. I think you made a very good and comprehensive statement with regard to the scope of the problem, indicative of the fact that there are many causes, and as a result of all those different causes, it provides a lot of excuses as to why the problem can't be simply addressed.

The fact is, that if the secondary market chooses to back up the institutions, we can get the credit out there that the families desperately need. So I hope that the announcements will, in fact, get the job done, but I look forward to working with you in the months ahead to make certain that these changes have in fact provided some help to the constituents that you serve. Thank you very much.

Mr. OHRENSTEIN. Thanks a lot.

Chairman KENNEDY. Do you have any questions?

Mrs. MALONEY. No, I don't.

Chairman KENNEDY. OK.

I now ask our second panel to please come forward. We have a wide range of participants in our second panel, and I will state for the record that your entire written statements will be submitted for the record. I would ask those of you, if you want me to read your names so you know who is coming forward, it is Gary Connor, Andrew Kelman, Ken Bacon, H.R. VanVarick, Grace Huebscher, Mary Anne Rothman and Charles Rappaport. Thank you very much.

I would just ask, if we could get the cooperation of the witnesses on trying to limit your oral statements to 5 minutes, that will at least give Carolyn and me some opportunity to ask you some questions. And this is, as all of you know, a technical issue, one that we can get into the details on, but I would very much appreciate you trying to limit your oral statements. We will take whatever written documents and submit them for the record, and it is always more helpful if we can just have an opportunity to have a little give and take in the question and answer period.

Our first witness from this panel will be Gary R. Connor, who is the assistant attorney general of the State of New York, in charge of the Real Estate Financing Bureau of New York State, Department of Law. In that capacity, Mr. Connor monitors the public offer of real estate securities such as cooperatives, condominiums, and homeowner associations. In addition, Mr. Connor has been involved in various legislative initiatives in the cooperative housing field.

We welcome you, Mr. Connor, and please proceed with your testimony.

STATEMENT OF GARY R. CONNOR, ASSISTANT ATTORNEY GENERAL, OFFICE OF NEW YORK STATE ATTORNEY GENERAL, ON BEHALF OF OLIVER KOPPELL

Mr. CONNOR. Good morning, and thank you for the opportunity to address you this morning. I am here, as you know, to talk on behalf of the attorney general about the serious financing problems faced by residents of cooperatives and condominiums in New York. Quite frankly, it is high time that attention be paid to the general reluctance of lending institutions to make and refinance loans to apartment corporations and to individual shareholders and unit owners. This reluctance has created a web of problems that affects hundreds of thousands of New Yorkers.

The attorney general and I greatly welcome your efforts to look into this matter and help solve the stalemate. As you may know, the New York Legislature has given the regulation of cooperatives

and condominiums to the attorney general. In particular, the attorney general has the obligation of overseeing the conversion of real property into residential cooperatives and condominiums. It is the attorney general's task both to regulate the offering of such securities, and to enforce compliance with the State conversion law. Our office thus reviews every offering plan for every cooperative and condominium in the State, and every amendment to those plans.

This is a formidable task. In 1993, my office reviewed 226 plans, and over 3,200 amended offering plans. This, of course, is much less than the heyday of the conversion offerings. In 1986, for example, there were 1,413 offering plans statewide, and 7,886 amended offering plans. And from 1980 through 1993, there have been more than 11,000 offering plans throughout the State of New York for co-ops, condos, and homeowners associations, representing over 800,000 units of housing.

The attorney general's office also is actively involved in the enforcement and resolution of sponsor defaults. Our experience leads us to conclude that no more than 10 percent of the post-1980 conversions have encountered sponsor-related financial defaults. Although some of the areas of New York have had a disproportionate share of these problems, it is important to remember that approximately 90 percent of the co-ops and condos in New York have never had a sponsor-related financial problem. Unfortunately, very few lenders appear to appreciate this fact.

What has frequently been overlooked, however, in assessing the harm to lenders by sponsor defaults, is that the lenders bear a great deal of the responsibility for the current situation. Their promiscuous lending was a contributing factor to the widespread problem of sponsor defaults, for without the bank loans to weak cooperatives and condominiums, these entities could not have been created. Most lenders paid little heed to what was likely to happen to the projects for which they provided mortgages. The lender's common practice of giving inappropriately high mortgages resulted in cooperative buildings being saddled with mortgages they could not carry.

The lenders, quite frankly, jumped on the bandwagon when there were big profits to be made in cooperative lending. Unfortunately, they were quick to jump off the bandwagon when the potential for easy profit was over. Many lenders ceased providing mortgages at all, or imposed such onerous criteria that a large number of creditworthy cooperatives and individuals were left out in the cold. The criterion imposed—originally that 70 or 80 percent, more recently 50 or 60 percent, of the apartments in a building must be owner-occupied, for example—are often rigidly applied. Thus, a lender will refuse to consider refinancing an underlying mortgage in a cooperative in which the sponsor has retained 40 or 45 percent of the shares, even where the sponsor-held units bring in rents higher than the maintenance, the sponsor has never defaulted on its obligations, and a large reserve fund exists. Perhaps worse yet, lenders will not give end loans to people who are excellent credit risks and who wish to purchase units held by a sponsor in buildings that are 40 percent or more sponsor-held.

The lenders' practices are making currently weak cooperatives worse. If institutions will not provide financing in a cooperative

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where 50 percent of the units are sold, a shareholder cannot sell except to a rare buyer who pays in cash. This inability to sell results in the shareholder subletting, if possible, and thus increasing the percentage of nonowner-occupied units for the next shareholder. Also, if lenders will not provide a new underlying mortgage at a reasonable rate, the cooperative is forced to obtain a new mortgage at a higher rate. This usually raises maintenance costs, making the building less attractive to buyers, and placing shareholders at risk because they couldn't meet expenses.

Worse yet, if no refinancing is obtained for an underlying mortgage, a cooperative may be foreclosed and shareholders lose their equity.

In fairness to the banking industry, particular banks have seen themselves as having a stake in the building or group of buildings and have been creative, flexible, and invaluable in working out sponsor default situations. Whenever we can, our office works with lenders in resolving difficult problems. But the industry as a whole has failed to acknowledge its responsibilities.

Lenders need to educate themselves about what makes a co-op or individual purchaser creditworthy. They need to move from applying strict and prohibitive standards, used in the service of saying no, to a balanced consideration of the viability of a particular co-op. It was not sensible to offer co-op loans to individuals and to sponsors as recklessly as was done in the 1980's, but it is no more sensible to deny co-op loans as rigidly as has been done in the 1990's.

I congratulate this subcommittee for taking a careful look at what federally chartered banks in New York do about granting co-op loans. Quite frankly, I think when we look at the questions involved, the answers will lead to the conclusion that all lenders need to be more reasonable, more flexible, and more civic minded in their lending policies.

There are two court cases which I believe relate to financial problems in New York which this subcommittee should be aware of. One is the Resolution Trust Corporation, which Congresswoman Maloney is very much aware of, in which the Federal Government is trying to preempt New York rent laws. That matter is now before the U.S. Supreme Court. I thank Congresswoman Maloney and the other Members of the New York delegation for supporting us in that effort. I also note that that effort where the Resolution Trust Corporation wants to preempt State laws affects Massachusetts, California, and Washington, as well as New York.

The second case which was mentioned earlier was the *Freddie Mac* case. That is the case where Freddie Mac is attempting to take the position that New York's rent laws do not apply once they have foreclosed upon an underlying mortgage in a co-op. To my knowledge, Freddie Mac is the only institutional lender in the State of New York to ever have foreclosed on an underlying mortgage. The *Freddie Mac* decision, while we have won that, is in jeopardy because it is now before the Second Circuit Court of Appeals. If Freddie Mac prevails, what that will mean is that there will be less incentive to do workouts by banks in the field.

I thank you very much for permitting me to make these statements, and I will answer any questions.

[The prepared statement of Mr. Connor can be found in the appendix.]

Chairman KENNEDY. Thank you very much for your testimony, Mr. Connor. We appreciate it.

Mrs. MALONEY. Could I just say very briefly, I just want to thank Oliver Koppell, our attorney general, for his brilliant work on these two cases, one before the Supreme Court, that would uphold our laws on the city and State level, and the other case. I just feel that your office has done a brilliant job in that respect, and I have certainly supported your work tremendously.

Chairman KENNEDY. Our next witness is Andrew Kelman, who is the director of housing for the Borough of Queens. His work focuses on developing affordable housing and financing programs for residents of Queens. He is representing Borough President Claire Shulman, who represents almost 2 million people. President Shulman plays a major role in a wide range of land use and economic development issues. Mr. Kelman, we welcome you to the hearing this morning. Please proceed with your testimony for 5 minutes. Thank you.

STATEMENT OF ANDREW KELMAN, ASSISTANT TO HON. CLAIRE SHULMAN, PRESIDENT, BOROUGH OF QUEENS

Mr. KELMAN. Thank you. Borough President Shulman, who is meeting with the mayor's office this morning, would like to thank Congressman Kennedy, Congresswoman Maloney, for sponsoring today's hearing, and for inviting me to provide her testimony on the critical subject of co-op financing.

The wave of co-op and condo conversions which swept across our city in the 1980's brought many benefits, but also left in its wake a calamitous situation for tens of thousands of our city's residents.

Over the past several years, the borough president has been addressing a myriad of financing problems, which at one time afflicted 1 out of every 4 of the approximately 80,000 units converted in Queens in the 1980's.

Through the cooperation working with fellow lawmakers and the borough president's Co-op/Condo Task Force, she can report that significant headway has been made in improving the laws which govern cooperatives and condominiums. We have gained the passage of five important State and local laws to address critical problems resulting from the conversion process and to provide assistance to troubled cooperatives and condominiums. Unfortunately, the conversion process itself is structurally deficient and State legislative reform efforts in the New York State Senate have so far failed.

Two years ago, the borough president began to address financing issues when it became clear that the credit crunch was harming financially healthy cooperatives. The borough president has convened regular meetings of co-op lenders, regulators, and secondary mortgage market representatives. In addition, last March, Congresswoman Maloney and other members of the New York delegation conducted a field hearing in Queens on this issue. Six hours of testimony zeroed in on what the problems were.

As a result of these efforts, I am pleased to report that significant progress has been made. Last October, Fannie Mae, and Ken

Bacon is here, announced liberalized underwriting guidelines for underlying mortgages in the establishment of a half billion dollar end loan program. Earlier this week, as has been discussed, Freddie Mac also announced an end loan program of sizable proportions. We anticipate that there will be additional programs announced shortly from the secondary market.

Nevertheless, many prospective purchasers are still unable to obtain financing. And too many cooperative corporations continue to find it almost impossible to refinance underlying mortgages.

Too many families have seen foreclosure notices, a frightening experience, which has typically resulted not from the actions of the shareholders who are innocent victims, but from the actions of some lenders. Overcompensating for the excesses of the 1980's, too many lenders in the 1990's have found many ways to say no.

Why is this the case?

Regulators have tightened reserve requirements and made it more profitable for banks to use deposits to purchase government securities than to make loans to homeowners. This led in many instances to lenders having withdrawn from the market entirely. Others set guidelines which abandoned many neighborhoods by rejecting co-op financing requests.

Following the lead of the secondary market, lending criteria have been established which, for example, call for a minimum percentage of sales, usually between 50 and 80 percent. Frequently, these criteria bear little relationship to the financial health of a building.

Mr. Chairman, you have asked me to make suggestions on what role the Federal Government can play to help resolve these vexing problems. The borough president's recommendations include the following.

First, regulators need to ensure that lenders' reasonable safety and soundness concerns are not used as an excuse to prevent lenders from meeting legitimate community credit needs. The Community Reinvestment Act requires lenders to identify what these community credit needs are. Nevertheless, I think there are very few lenders who have actually taken neighborhoods such as Jackson Heights or Park Slope or Pelham Parkway, East Harlem, as being in their primary service area, and have actually identified a need for co-op financing in these neighborhoods. Clearly, since the Community Reinvestment Act already exists, we can use this more effectively.

Second, Fannie Mae and Freddie Mac and the secondary market have made great strides in the business of buying co-op and condo loans. That is why they were created. I believe that we need to join together to continue to address additional issues, such as pro rata share, and to press for a further reduction in the presale requirement.

Lenders too frequently reject loan applications by saying that an apartment's pro rata share of the underlying mortgage is too high, when compared to the apartment's value. However, this is frequently a result of depressed values which were caused by the previous lack of available financing. As such, it is an inaccurate measure, we believe, of the apartment's value.

In addition, scores of thousands of families in New York City reside in buildings where fewer than 51 percent of the apartments

have been sold, the new minimum resale threshold established by the secondary market. The survival of these co-ops and the well-being of the families who live in them depend on extending financing to them. This can only occur through a further lowering of the presale requirement for the secondary market.

Third, our banks need to work out troubled finances at the table and not in court. It is not worthy for a lender to wait until a default to deal with over-leveraged co-ops and then address it through costly legal actions.

In sum, the borough president firmly believes in the American dream of home ownership, and she believes that the overwhelming majority of cooperatives and condominiums are financially sound. By taking action to resolve the problems that have been caused by past abuses, we can ensure a healthy future for apartment home ownership for thousands of New Yorkers. Thank you.

[The prepared statement of Ms. Shulman can be found in the appendix.]

Chairman KENNEDY. Thank you, Mr. Kelman.

Mrs. MALONEY. If I could just ask one question, in discussions with your office, the issue of the Community Reinvestment Act has surfaced in connection with co-ops. And Chairman Kennedy has done a great deal of work with the Community Reinvestment Act and will be working on it in the next session of Congress. Would you elaborate on how you see the relationship between CRA and co-ops?

As you know, CRA must be used for low-income housing, and a lot of your co-ops are middle-income housing. So CRA could not be used for that purpose. Could you elaborate on how CRA could be used with co-op financing?

Mr. KELMAN. Sure. The Community Reinvestment Act, as part of the process, of course, all the lenders are required to identify what the community credit needs are in the areas in which they serve, and to identify what measures they have taken to try and address these credit needs in boroughs outside of midtown Manhattan, and north of 96th Street.

Most of the cooperatives are inhabited by people of modest means, working class families. In many instances, they have purchased these apartments with their life savings. These are not well-to-do individuals. In many neighborhoods, this is a predominant form of housing. If you are not meeting the needs of financing for these individuals, you are not meeting the credit needs of that particular community in which you are serving. I think it is a tool, one of many, that regulators need to look at and expand the definition if need be to ensure that this can be effectively used.

Chairman KENNEDY. OK. I think we have a bad precedent by starting to ask questions in the middle of a panel, because it makes it very difficult to finish the panel. I briefly want to comment that the only concern I would have about using CRA, if we start to open CRA up for anything but lower income people, we set a very dangerous precedent in terms of where CRA is taken on a national basis. If banks feel like they can go into working class communities and make loans that are solid loans and get CRA credit for it, CRA is not going to do anything for the really low-income communities

that this city also has to deal with. So we have to be a little bit careful about it, Andrew, but we can come back.

I am not familiar enough with the profile of who lives in these co-ops to be able to give an informed comment as to how that would actually fall out. I am sure there would be some families that should be eligible for CRA credit, but there is going to be a lot of others that aren't. And we don't want to open up a door that, or crack that, you end up driving a Mack truck through here. So I would be happy to work with you on trying to figure out a solution to that.

Let me go on to our next witness, and we can come back and ask some questions. Our next witness is the hero of the day, H.L. VanVarick, who is the Director of Multifamily Production and Product Development at the northeast region of the Federal Home Loan Mortgage Corporation.

STATEMENT OF H.L. VANVARICK, DIRECTOR, MULTIFAMILY OPERATIONS, FEDERAL HOME LOAN MORTGAGE CORPORATION, NORTHEAST REGIONAL OFFICE

Mr. VANVARICK. Good morning, Chairman Kennedy, and Congresswoman Maloney. As a New York resident involved in local lending for more than 30 years, and a constituent of Congresswoman Maloney, I am pleased to represent Freddie Mac at the subcommittee hearing to talk about condominium and co-op financing.

Chairman KENNEDY. Did they tell you to tell us how you voted yesterday?

Mr. VANVARICK. But to begin with, let me clear up a little misunderstanding around our recent announcement. Our Share Loan Program has been in existence for over 2 years. And what we did on Monday was announce an increase in that Share Loan Program. We have already, by June 30 of this year, put $256 million into that program. Back in March we agreed to this announcement. Because of the mayor and some congressional reasons that Chuck Schumer couldn't make it and the mayor couldn't make it, we couldn't have the announcement until Monday. So we did plan that before we got your invitation.

Chairman KENNEDY. So you want to tell us what the other congressional pressure was that made you do it?

Mr. VANVARICK. Not exactly. Let me just talk a little bit about Freddie Mac and what we have done since most of this has been negative against us so far. From its creation, Freddie Mac has helped meet the housing client needs of both New York State and New York City. Since 1970, we have provided $58.9 million in financing by purchasing over 791,000 mortgages in New York State. Since 1984, we have purchased more than 3,000 multifamily mortgages, totaling more than $3 billion in New York City alone. Our current New York City portfolio is over 2,000 multifamily loans, totaling more than $1.8 billion, providing financing for over 112,000 apartment units. Of that amount, $347 million, or 257 loans, cover underlying co-ops. That is 20,000 units.

In our recent announcement, as I said, it was an increase in our pilot program. It is just another indication of our strong commitment to the city. This program provides a fixed rate, 90 percent loan to value, on units in buildings that are at least 51 percent

owner-occupied, as we did—we moved it down from a requirement of 65 to 51 percent owner occupied. The buildings can be as small as 10 units. And as we previously stated, that is $256 million that we invested. That is 2,547 share loans. We think that the new announcement will make funds available to as many as 10,000 borrowers.

In your letter of invitation, you asked that we raise issues affecting co-op financing. We believe that most of the issues are ones that are simply endemic to this form of home ownership; that is, the cooperative form of ownership is a unique blend of real estate and personal property concepts, found predominantly in the Northeast, especially in the New York metropolitan area.

On the share loan side, most of the issues cannot be addressed without change in the very nature of the co-op concept, and we believe the concept is sound and the loans can be made as long as the underwriting reflects the unique nature of the co-op ownership.

And the co-op underlying side, we have a long history of experience. In this area, we find that a number of nettlesome problems affect refinancing of underlying mortgages. Many of these problems involve a mix of legal, financial, and economic issues that are endemic to this form of ownership. Examples are the amount of presold; the inability of underlying lenders to selectively exercise its remedies in the event of default; that is to say, the lender is unable to foreclose out the interest of a delinquent sponsor, while leaving the paying shareowners in place. Subordinate financing is another problem. Sponsor control of the co-op board or the property management is problematic.

We only note these are issues. They either do not lend themselves to simple solutions or are best handled with appropriate underwriting standards. However, the issue that has come up before of particular concern at this time is the underwriting uncertainty due to a recent court ruling that former shareholders become rent stabilized tenants after deconversion and a proposed regulation formulating rents on deconverted apartments. The court decision and the draft regulations from the Department of Housing and Community Renewal in tandem have a dramatic negative impact on the collateral value of co-op buildings in New York.

Any real estate loan must be evaluated on the worst-case basis. That is, if a loan is not paid and the lien must be foreclosed upon, what would be the value of the collateral? Under the proposed regulation, the co-op building would have far less value than that previously estimated, because the rental income and thereby the net operating income would almost certainly be substantially lowered. This will decrease dramatically the loan amounts for which co-ops can qualify, thereby affecting the ability of co-ops to maintain and upgrade the building. Freddie Mac is working with industry groups and local officials to find creative solutions to this situation.

I hope this information is helpful. I can answer questions.

[The prepared statement of Mr. VanVarick can be found in the appendix.]

Chairman KENNEDY. Thank you very much, Mr. VanVarick.

I would now like to recognize Mary Ann Rothman, who is the executive director of the Council of New York Cooperatives. Her work with the council includes providing information and services to

more than 1,800 cooperatives and condominiums in the New York area.

Ms. Rothman, it is a pleasure to introduce you. I would ask you to try and respond somewhat to the statements of Mr. VanVarick in your comments. You can submit your written statement for the record, but I do think it is helpful, if we are going to have these hearings, then it is good to voice differences in opinion in terms of how things are going out there. We have to shed some light. We don't have a lot of time to do so. So if you wouldn't mind trying to address some of the issues that according to Mr. VanVarick are a problem that I think he would indicate is a very difficult and thorny one to solve. Everything from the boards of directors of the local cooperatives to other regulations get in the way of him solving the problem. So if you might address that for us, I would sure appreciate it.

Ms. ROTHMAN. I would be delighted.

Chairman KENNEDY. Thank you. Maybe if someone can hand her a microphone.

STATEMENT OF MARY ANN ROTHMAN, EXECUTIVE DIRECTOR, COUNCIL OF NEW YORK COOPERATIVES

Ms. ROTHMAN. Thanks. Let me take a moment to thank you for bringing these hearings to New York, thank Carolyn for always being in the corner of co-ops and condominiums, whether in the city council proclaiming that a home is a home and our property taxes should be fairly distributed, or in the Congress making sure that home ownership through co-ops is recognized and making sure that we have access to financing, which we need, which we deserve, and where we have an unbelievably good track record.

Gary Connor needs to be acknowledged, also. The attorney general's office has worked extremely hard to bring into line the problems that have occurred. Gary is a fund of wonderful accurate statistics, and I did check and my note says three foreclosures and Gary nodded. There have been three, count them, three foreclosures of underlying mortgages. There are some 6,000 viable cooperatives functioning in this city. So I think if we look only at worst-case scenarios, we are doing everyone a disservice.

I am more than delighted that Fannie Mae and Freddie Mac are committing money for loans for single-family homeowners; I am glad that we are acknowledged in co-ops and condos as being viable single-family homeowners worthy of investment. But I think we have not—I think neither Freddie nor Fannie has bought a lot of co-op loans lately in New York. I am delighted that huge sums of money have been pledged and I hope that they are going to be placed in ways that help the middle- and moderate- and low-income people in the co-ops of this city.

But I am delighted to cut to the chase. I will read the parts of my testimony or read from the parts of my testimony that deal with the obstacles. And I did acknowledge that we have made great progress. Claire Shulman has to be acknowledged for the tremendous leadership. The field hearing of the Banking Committee a year ago in Queens really started the ball rolling. But there are enormous obstacles still to overcome.

The secondary market guidelines make loans feasible in certain buildings where 50 percent of the units have been sold away for the sponsor. And as I say, we are immensely grateful for the recognition that 51 percent rather than 60 or 70 or 80 percent. But local lenders approach these buildings with extreme caution, and often impose unrealistic restrictions.

Ironically, the Fannie Mae announcement was made at the gates of a beautiful little co-op in Queens and we were told from today forward this co-op is going to be just fine because the Fannie Mae guidelines will enable loans to be made. That co-op can't get share loans today. Maybe Freddie will come in and do something.

As an organization, we, the Council of Co-ops, refuse to renounce our system. We are sure that as the most viable candidates get loans and prove the success of the program, we are confident that the more marginal buildings will eventually receive attention from lenders. We do look to this subcommittee to expedite the process. It has taken a very long time already. Possibly, some reporting mechanism could be initiated, designed to nudge lenders more firmly toward faster action on requests for loans in buildings that do meet the secondary market guidelines.

The pro rata share of the underlying mortgage has been another obstacle to lending. Lenders seem to refuse to consider loans for the purchase or the refinancing of cooperative apartments in the building where the apartment's pro rata share of the underlying mortgage exceeds, say, 35 percent of the purchase price of the unit.

I am delighted that the new Freddie Mac guidelines look at 40 percent.

Now let me explain what my understanding of this pro rata share thing is. If I go to buy a $60,000 co-op and it is in a 100-unit building and there is a $2 million mortgage on the building, that means that, rough cut, each apartment's pro rata share, their responsibility for this underlying mortgage, is $20,000, if I put all the zeros in exactly the right places.

Now, my understanding of the calculation, and Andy will stop me if I am wrong, is that that $20,000 is one-third of the $60,000 purchase price, so bingo, it's OK, it is underneath the 35 percent or now the 40 percent from Freddie Mac. I have seen other calculations where it seems to be subtracted or moved around. This is bad enough. I think that this is what pro rata share is.

So this seems to be the way it is calculated. It is a viable test, it is a way of seeing what people's obligations are. But remember that the responsibility for the mortgage is also calculated into the maintenance and it influences the sales price of the apartment. So pro rata share is appropriately only one factor in the evaluation of a loan. It shouldn't by itself trigger automatic exclusion of a loan in an otherwise viable building. However, if the local lender does impose a formula like this, it is absolutely unthinkable that that lender should take people's loan applications and the application fees that go with them, take their time and then inform them several months, weeks later, that their loan wasn't acceptable because of pro rata share.

Chairman KENNEDY. Ms. Rothman——

Ms. ROTHMAN. You want me to slow down?

Chairman KENNEDY. Well, no, but you are over your 5 minutes, and the problem is that because I have a plane that I have to catch after this hearing, we are not going to be able to ask any questions if I don't move the hearing along.

Ms. ROTHMAN. Let me make two points. If pro rata share counts to exclusion, it should be calculated first and no one should take application fees. The real difficulty comes in buildings that are under the 51 percent, 49 percent, 30 percent, so on, and Fred Ohrenstein and others have spoken about the SONYMA initiative which should help with that. We are hoping that this subcommittee can institute some level of pressure or education or questioning to verify the level of loans made in a community, the level of requests for loans in buildings that are under 60 percent sold versus the number of loans made. And as an organization, we will be delighted to take part in doing this education and/or publicizing it.

Finally, we would be remiss if we didn't thank the lenders who have stuck with us through thick and thin. There have been several local lenders who have provided loans where others wouldn't, who allowed their clients to refinance share loans, even when there was virtually no equity left.

Chairman KENNEDY. You can submit those names for the record. We appreciate your testimony very, very much, and we will look forward to following up with some questions.

[The prepared statement of Ms. Rothman can be found in the appendix.]

Chairman KENNEDY. I would now like to go to Ken Bacon, who is the Senior Vice President of Fannie Mae. He is responsible for all the business operation in Fannie Mae's northeastern region, and before joining Fannie Mae, Ken Bacon was the Director of the Securitization at the RTC.

Ken, we welcome your participation in today's hearing and look forward to your testimony. Please proceed for 5 minutes.

STATEMENT OF KENNETH BACON, SENIOR VICE PRESIDENT, FEDERAL NATIONAL MORTGAGE ASSOCIATION, NORTHEAST REGIONAL OFFICE

Mr. BACON. OK. Got my watch out.

First of all, I would like to say there is one part of my background that the chairman didn't mention, and that was the fact that for 9 years I was an investment banker in New York, and I was treasurer and then president of my own co-op, 114 Morningside Drive, which I think is about the second oldest co-op in the city. So I had kind of a firsthand familiarity with the problems that co-ops face.

And when I joined Fannie Mae's northeastern region in May 1993, our dialog with Ms. Shulman and Andy Kelman, who was very instrumental in making this happen, was well under way. And I would like to take a minute to tell you not only what we did, but how we did it. Because I think that is very important.

When we looked at the problems that co-ops were facing, we realized that our credit standards were rigid, and really did not necessarily contribute much in terms of the credit analysis of the building. So over a period of about 4 or 5 months, we met with mortgage insurers, we met with over 15 lenders, we surveyed peo-

ple, we talked with co-op boards, and we changed our standards. And the changes that were made on the share loan side have been mentioned.

We dropped the presale requirement to 51 percent. We increased the pro rata percentage to 35 percent automatically, and you will be pleased to know people can go up to 40 percent with Fannie Mae, again if they just raise their hand and say this is something we need to do. More importantly, we told people that we would now allow there to be negative cash-flows in a building, that that was now acceptable. That used to be a no-no.

And on the blanket loan side, which we haven't talked about, I think it is worth taking a minute to tell you what we did there. We made changes there that we didn't put a dollar limit on it, we didn't call it a pilot. These are the changes that we made for all co-op loans everywhere, where we dropped the presale requirement for blanket loans.

We again used to not allow negative cash-flows. We allow negative cash-flows now, again to a certain extent. And for buildings that had very healthy cash-flows, we even waived the replacement reserve requirement. These changes have resulted in business. In fact, I have been sitting here, and I like to tell people it is not as doom and gloom as it may sound. In a year in which originations, for example, this year compared with last year, originations have dropped about 60 percent overall, but in terms of co-op loan deliveries, in 1993, Fannie Mae took in 3,300 share loans that aggregated about $300 million. Through July of this year, we had already taken in about 2,800 loans.

Now it is interesting that the dollar value has dropped considerably. They are now—we only took in about $168 million, which means that the property, the loan balances in 1994 business, have dropped about 30 percent compared with the previous year. Part of that is due to the fact that we are now buying some seasoned loans that have paid down, but also some of that is due to the fact that we are now beginning to get loans from some buildings where I think the tenant profile is more long, lower, moderate-income lines. And in fact to facilitate that, we have even allowed 33/38 income ratio underwriting, our Community Home Buyer's Program underwriting, for share loans.

We have talked about changes that we announced, but there were some other changes that we made since the pilot came out, and I stress this because we just didn't do it once. We continued to revise and improve the program. So we now have permanent delivery of shares loans on projects from leased land. We have relaxed our environment requirements for environmental reps and warranties to make them the same for co-ops as they are for single-family houses. We permit the delivery of co-op share loans with other mortgages in our NBS pools. Again, that facilitates people delivering stuff to us. And then we reduced the number of documents required upon delivery of share loans to streamline the delivery process, to make it easier for lenders to do business with us.

Clearly, there is a lot of work that needs to be done. We increased the amount under the pilot, $200 million. Some new lenders have come, in a lot of the local savings banks. But we realize that work has to be done.

But in closing, I would like to say that again I would like to think the situation is getting better. I think there is a need to educate more lenders. There is a gentleman here from I think it is Boulevard Gardens in Queens. We changed the criteria, and he is saying the problem is—it is not you, Fannie Mae, but I have still got to get a lender to make the loan. I can't buy a loan unless somebody has made it.

And the other thing I think that we are going to have to understand when we look at this problem, is that the reason there is a problem today, is that the way many buildings were converted was flawed. The basic financing was flawed. And I think that as we make changes going forward, we need to make changes in a careful, deliberate fashion, that recognizes that we don't want to repeat the mistakes of the past, but we do want to do things, deals that make sense. The only way that Fannie Mae or Freddie Mac loses money is when a family loses their home. So this is not a zero sum game. This is a situation if the homeowner loses, we all lose.

And I would like to address one more remark to Congresswoman Maloney, Congressman Kennedy. In your remarks, Congresswoman Maloney, you mentioned political pressure in changing our standards. I like to think that our efforts in Queens were really more in the nature of a dialog. And as I was sitting here thinking, I thought about what it is like when I go to Congressman Kennedy's district in Boston, that is pressure. Every time I go to Boston, I usually check my will, have my wife light candles for me at church, to make sure to pray for my return. I want to say that——

Chairman KENNEDY. That is the best compliment I have gotten in a long time.

Mr. BACON. So I would like to say that again we have enjoyed working with people in New York, and again we will continue to do so. Thank you very much.

Chairman KENNEDY. Thank you very much, Mr. Bacon. It is not that bad.

[The prepared statement of Mr. Kenneth Bacon can be found in the appendix.]

Chairman KENNEDY. I would now like to turn to Grace Huebscher, who is the corporate vice president in charge of secondary marketing, and head of the real estate for the National Cooperative Bank. Ms. Huebscher oversees all of the real estate originations for her institutions and their subsequent sale.

We again thank you very much, Ms. Huebscher, for your testimony, and again I would urge you to please try to engage us, thank you very, very much, in some of the different aspects of testimony that has come forward. Please proceed.

STATEMENT OF GRACE HUEBSCHER, CORPORATE VICE PRESIDENT, NATIONAL COOPERATIVE BANK

Ms. HUEBSCHER. OK. Just to let you know, first of all, too, we are national, so there are cooperatives beyond the Hudson River. We have a little bit of a national focus here, too. We have done $1.2 billion in building financing over the last 10 years, and we pioneered the secondary market for those types of loans. In fact, we sold them without using Freddie and Fannie. And we sold $1 billion into the secondary market over the last 10 years. We never did

unit loans in the New York area. In fact, most of the end loan or unit financing we have done has been outside of New York, because that market has been underserved.

Well, in light of the recent credit crunch, we have come into the New York City share loan market. And what we are focusing on is trying to do share loans for buildings that have less than 51 percent sold. And we are doing share loans for smaller unit buildings, for under 10 units. In fact, we have done loans for 2-unit co-ops. We have instituted a 100 percent loan-to-value program to help people take advantage of the refi market that couldn't otherwise do that and lower their costs. We are expanding our building loan requirements as well. And what we are basically doing is we are betting our portfolio, now, today, because of the recent improvements that the agencies, Fannie and Freddie, have made. And we are relying and betting on the fact that they are going to keep that commitment and actually improve and expand their guidelines over time, as we show them through our portfolio experience that these are very, very good credits. So let me just move on to recommendations.

What I would like to see is to get Freddie Mac back into the building loan market. The recent case that everybody has discussed today has caused them to discontinue lending in the New York market area, the buildings, and I just don't think that is appropriate. I think that we definitely need to tread carefully on this issue. It is a very, very complex issue, but I think it sends the wrong signal to the marketplace. We need to get Freddie Mac back as a—we need to have Freddie include National Cooperative Bank as a lender for its end loan product and share loan product. We are not right now, and I will make sure I will do everything I can to make that happen.

And I think we need to have Freddie Mac institute a Share Loan Program that is permanent. It shouldn't be a pilot program. I think we need to get them to be on par with Fannie Mae as it relates to this type of financing. I actually—I would like to say that across the board, with both Fannie and Freddie, I think they need to—they have stepped up to the plate right now, but I think there is even an opportunity with the New York City market stabilized in terms of values, the sponsor crisis is out, we know the good buildings, I think we need to think about expanding beyond the existing guidelines we have today. And National Cooperative Bank would be willing to partner with these agencies to try to share our knowledge of this marketplace.

We have intimate knowledge of the buildings, probably 25 to 30 percent of the marketplace, and we will do whatever we can to work with you to try to help you expand those guidelines.

Also, I need to take a moment just to talk about more nationally in terms of housing cooperative development, and housing cooperatives represent a solid and safe, affordable home ownership opportunity for low- and moderate-income people. Yet, there has been no new cooperative development. And I think this has a lot to do with Federal policy. And what I would recommend, in order to make sure that this development does take place in the future, that we allow for a low-income tax credit that complements the development of limited equity cooperatives. That would provide a section

8 set-aside to NCB and other lenders who finance and promote new, affordable cooperative development, similar to the set-asides that have occurred with the pension funds recently.

I also want to encourage HUD to expand its insured mortgage offerings for underlying financing and end loans. And there has been some progress to date. In fact, I want to thank you, Congresswoman Maloney, for your efforts in the most recent Housing bill to try to facilitate the federally assisted and subsidized housing programs to aid in the development of cooperatives. That is it.

Chairman KENNEDY. Great. Thank you very much.

Our final witness is Charles Rappaport, who is the president of the Federation of New York Housing Cooperatives. Mr. Rappaport and his wife, Eva, are the recipients of the Jerry Vorheese Memorial Award in recognition of their many years of hard work and dedication to the cooperative housing movement.

Mr. Rappaport, we welcome you here this morning and look forward to your testimony. Please proceed.

STATEMENT OF CHARLES RAPPAPORT, PRESIDENT, FEDERATION OF NEW YORK HOUSING COOPERATIVES

Mr. RAPPAPORT. Thank you, Mr. Chairman. I guess as the last speaker, I am the senior gray hair person in the co-op field in New York, or at least one of them. I have been around a long time and I have seen many, many changes.

I am not going to go over the things that everybody has already expressed. We all know what the problem is. You have heard from many witnesses. You have heard what the consequences are of the policies that have been announced which have created these problems, people losing their homes, equity, and so forth.

In addition to that, we know what has caused these things, and you have heard some people speak here about the magnanimous liberal lending policies of the financial institutions in the early 1980's, when everything seemed it was going up, and nobody believed that things could come down. We all know that what goes up comes down, and hopefully what comes down will some day go back up.

But I would like to talk to you, since you are Members of the Congress and deal with things on a national level. There are a number of solutions to these problems which have not been discussed here, and that is what I want to address, solutions.

First of all, on a national basis, we have to turn around the negative image that has been created about housing cooperatives due to the few defaults that have happened in New York City. I guess the media thrives on bad news. They don't mention the great number of successful cooperatives.

The Federation was formed about 40 years ago. It was formed because there was a program put forth by the Congress called section 213 of the National Housing Act. Section 213 was the result of a visit to the Scandinavian countries by at that time Senator John Sparkman, who said, we found something very interesting to solve the housing problem. They give 30-, 40-, 50-, and 60-year mortgages, and the government insures it, so the banks can't lose. Let's do the same thing here. And that was the beginning of the 213 Program, which, if you check with HUD, was without a doubt

the most successful, most successful Multifamily Housing Program that the Congress ever enacted. And so that program is still alive.

But the 213 limitations are such that we can't use 213 today to get federally insured by FHA/HUD of underlying mortgages. If we could reinvigorate the 213 Program by making realistic limits for mortgages, you would find that the co-ops would be more successful in getting loans because the Federal Government would stand behind the mortgage.

The other part is section 203(n) of the National Housing Act. Section 203(n) is a program for insuring share loans, again by the Federal Government. Congress enacted 203(n). There were a lot of objections to the way it was written. They amended 203(n). HUD issued regulations to implement 203(n) then withdrew the regulations and has never come up with a new set of regulations to insure share loans. I think many banks would be very happy to give share loans if they knew that the Federal Government was going to guarantee the principal of those loans. So I think those are two areas which should be explored by the Congress again, reinvigorate section 213 and also see to it that 203(n) of the National Housing Act is made viable.

Two last brief statements. Unfortunately, underwriters look at the co-op and measure it against a boilerplate. The co-op should be looked at in terms of its own identity and its own situation. They should be educated. And I give you two examples of lack of education and understanding.

There is a 213 co-op in the Bronx which is in the 39th year of its 40-year mortgage. It has 1 year left and the mortgage matures. A person who wanted to buy into that co-op was denied a share loan because, quote, the co-op only has 1 more year on its mortgage. Did not understand what that was all about, that there was no balloon, that there is no money to be paid off at the end. Shows a lack of education.

I think in Sunday's *New York Times*, Mary Anne Rothman was answering a question which a person posed. The sponsor owns 60 percent of the units, he has a positive cash-flow, yet the banks will not lend money for people to buy into that co-op or for people to sell. Again, they are not looking at the co-op, they are looking at a boilerplate.

And the final statement that I wish to make is this: I am sure, Senator—I mean, Congressman, you are aware, as is Congresswoman Maloney, tonight and all day tomorrow, Jewish people throughout the world will be adhering to the holiest day in the Jewish calendar, the day of atonement. Part of the services tomorrow, or in the services tomorrow, there is a statement that is made as part of the prayers that I would like to talk about for a moment. It says that prayer, repentance, and charity will mitigate any bad decree before the books are closed for the year. I would like to go back to the lending institutions and say to them, using those three words, and I would like to say to them, we pray that you will make more loans. Number two, we say you should be repenting for the sins of the early 1980's; number three, by being more charitable in lending people money.

[The prepared statement of Mr. Rappaport can be found in the appendix.]

Chairman KENNEDY. All right. Well, Mr. Rappaport, I—my experience in government so far is that prayers are not the way to get banks to move. But in any event, although there are a few bankers that could listen to your advice and do very well.

First of all, I want to thank all of our witnesses for your testimony. I think you have given excellent and insightful testimony as to how this problem developed. It seems to me, as I listened to you, to be one sort of glaring absence, and that is where are the banks? And the—excuse me?

Ms. HUEBSCHER. I am the only one.

Chairman KENNEDY. Well, the fact is that you are trying to get this job done, and Ken Bacon referred to the fact that if he can get the banks to cooperate, his agency is ready to do so.

Gary, I wonder if you might just comment on whether or not you believe the banks are in this process, whether or not the 51 percent limitation is getting in the way, and whether, bottom line, the programs or the advancements of the programs that we have heard talked about by Freddie and the program that has been put in place by Fannie, will in fact solve the majority of the issues that we have discussed this morning?

Mr. CONNOR. Well, the banks mainly fall in two different lines. If a bank has money in the project now, they are willing to deal. They will try and renegotiate and save the money they have in it. If, however, they are not in the deal, if we are talking about new monies entirely, as soon as they come up against some kind of a guideline, a 51 percent or 60 percent or whatever, as soon as that is triggered——

Chairman KENNEDY. The 51 percent is implemented by the two backing agencies, secondary market?

Mr. CONNOR. Right. And what the banks are doing is they are taking a very rigid view of if you have 50 percent, we don't really care what the health of the rest of the co-op is. It could be wonderful. It is an immediate reaction. Freddie Mac, Fannie Mae have this level, this is the percentage, we run if we don't meet it.

Chairman KENNEDY. If I could just stop you there, maybe ask Ken to respond to that. Is there any flexibility that you have or can encourage?

Mr. BACON. Well, I think that both Fannie and Freddie, we always use the word "guidelines." And, for example, in Congressman Torricelli's district, one of the things we found out was that there were some buildings with problems, but, you know, we said, look, there is a thing called a waiver or a variance that we will give to people. The guidelines, we say if it meets these things, this is automatic. If it doesn't, come and talk to us about it. And that is what, where we are really going to concentrate on things, is the underlying health of a building, why haven't the units been sold, is the building strong from a cash-flow perspective? So if, you know, if a building is at 20 percent, yes, I got a feeling that is going to be a problem. That is way off. If a building is 45 or 50, that is close enough that if everything else is OK, you know, I don't want to make a blanket commitment, I am not going to buy it without seeing it, but I would certainly sit down, look at it, send someone up, and chances are we might do it.

Chairman KENNEDY. And do you think that that is enough to get the constituents that you are trying to serve, the refinancing they need?

Mr. KELMAN. Well, I think the flexibility is tremendously important. The problem is that, as Gary had pointed out, a lot of the lenders, since they are not interested in keeping anything in portfolio due to the regulators' rather onerous requirements these days, are being—looking specifically at the secondary market to buy these loans. And the people who are trying to get the loans don't know enough to ask for a waiver, to get that second look, to say, you know, gee, I don't meet this requirement, but we have a positive cash-flow, don't you think we ought to get that? So even though there are guidelines and there is flexibility built in, the lenders themselves are not encouraged to seek that.

Chairman KENNEDY. What we find in Boston, just to interrupt briefly, is that when we have a problem that is somewhat similar to this, with what we call multifamily, which Fannie and Freddie—if you got a triple decker in Boston, that is a multifamily. You guys consider that single family for some reason. But anyway, the fact is that we were facing some onerous guidelines in the past, and despite the fact that Fannie had changed their guidelines, it took a long time for the banks themselves to sort of get with it. And that is where sort of the infrastructure that seems to be in pretty good shape here in New York, where you have advocates like Ms. Rothman and people that pay as much attention as Carolyn and other elected officials, can begin to channel in the affected projects and affected buildings into a system.

Now, I don't know whether that is realistic to expect in a city that is so diverse as New York. So that, you know, for instance, Gary, you would hear about buildings that are falling outside and be able to channel those into a lender that could then take them to Fannie or Freddie. Or is this a realistic hope, that you could—that you have got enough infrastructure in place that allows buildings that fall outside the guidelines to actually get at least a hearing before these institutions?

Mr. CONNOR. I think it is a tremendous problem, to try and do that. I really think it has got to come from the lenders themselves to probe and look further. I think it is difficult for co-ops especially to keep fighting. Because that is what happens, you have to keep going back and fighting the lenders to try and get another look at what they are doing. And even government, I think, has difficulty in getting the lenders to do that.

Mr. VANVARICK. If I may, Congressman, programmatic—I don't like to pick on the competition, but once in a while you have to.

Programmatically, we are down at 51 percent. Our waivers start at 51 percent. I know that their program is a little bit higher, so with our coming out at 51 now, that may help. You know, we were at 65 and they were I think 80, where they started to ask for waivers coming down. So this 51 being out there as the bottom line from the program, you know, helps that situation.

Chairman KENNEDY. Are you able to keep up with all this? Good, thank you. Why don't I turn the questions over to Carolyn.

Mrs. MALONEY. OK. Well, again, I thank all the panelists and particularly the two governmental entities that have responded to

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the concerns of many New Yorkers and many people in our country about financing for co-ops and condominiums.

One thing that I feel very strongly, and Mary Ann mentioned it, is that a home is a home. Whether you decide to live horizontally or vertically, you should be treated the same in governmental policies. Yet, we have seen throughout New York City a difference in treatment. If you live in a co-op you are treated differently than if you live in a home, whether it is the same tax on the same equity or value of your home.

As you know, we did a study that showed that co-ops and condos are taxed 5.5 times more than single-family homes. Repeatedly, you see this. And I want to cite this, and I mentioned it to Joe earlier, a veteran came to my office recently wanting to get a veteran's home loan for a co-op. And he was denied this loan because he was trying to get it for a co-op. They would say we would be delighted to give it to you if it is for a home. But if it is a co-op, which is the home of many New Yorkers, we have over 750,000 co-ops in New York City, he was denied that loan. And that seems very unfair and that is another thing that we need to look at.

And you mentioned earlier the government subsidies discriminate in many ways and policies against co-ops and condos. But on a personal level, the one problem that I hear the most when constituents come to me to explain about the problem of getting a loan is because of the pro rata share problem. And I would like to ask each of you to comment on this problem, to explain to the subcommittee and for the record what this problem is, and if this problem stems from the policies of primary lenders or from the governmental agencies. But if you could, I would like to hear responses on the pro rata loan problem, the pro rata share problem. When people come to me, if it is because of that problem that they say they are being denied a loan, and I would just open it up for anyone who would like to comment.

Mr. KELMAN. If I might. I think that the Congresswoman has zeroed in on what is arguably the most common problem in trying to work with the new, improved guidelines that the secondary market has provided us with. The notion of pro rata is something which is very foreign to an individual who is trying to get a loan. They don't understand it. Most of us think we understand it, but we all tend to have somewhat different definitions of how it comes into play.

But the basic problem which I would say is twofold. First of all, you are looking at buildings where financing was not available before. And because of that, you have very depressed values. Transactions occurred on an all-cash basis. So apartments which really are worth $10, were only selling for $5. Because of that, the portion of the underlying mortgage is much higher than it really would be ordinarily. And so a lot of buildings which meet the new guidelines are in effect being tossed out because of the pro rata situation, which in these buildings is really an artificial measure and not accurate, because there hasn't been a true market in those buildings.

Second, one of the definitions which—and with all due respect, I think Fannie Mae has really been way out in front in working and engaging in dialog with folks on the problems. And I suspect that we will have further conversations about this.

But in looking at the way Fannie Mae has defined it, if you have an apartment which is purchased for $10 and that value in part is because there is $5 of underlying debt on that apartment, which comes out in the form of high maintenance charges that you have to carry. A similar apartment was sold for $13 and has $2 of underlying debt on it and because the maintenance is lower, because there is a lower underlying mortgage, the person is able to get a higher price for it. But in both cases, each apartment was basically purchased for $15, one portion of it in the actual purchase price and one portion of it in that underlying debt that you are assuming and paying off monthly.

But the way Fannie Mae has defined pro rata share, they are going to subtract the underlying mortgage from the purchase price. And so in one building they would define the value of that apartment as $5, and in the other building, they would define the value of that apartment as $11 when in actuality each apartment is valued the same.

And I think that the pro rata share issue, as the Congresswoman has identified, is something that we all need to work very carefully on. And until we do so, I think we need to perhaps consider not having it put into play until we can identify a rational means for using it.

Mr. RAPPAPORT. Mr. Chairman, on the pro rata, the absurdity of using that formula is that the older the co-op is, the more successful financially that the co-op is, it has paid off its mortgage. What do I do with a 213 which is 41 years old, 1 year ago it paid off its mortgage, it has zero underlying debt? By that formula, nobody in that cooperative, whatever the circumstances, could ever sell their unit to somebody who is going to get a loan.

Ms. ROTHMAN. No, no.

Mrs. MALONEY. Mary Ann.

Ms. ROTHMAN. I think, Charlie, what you are talking about is a misunderstanding of a co-op without a mortgage, and indeed blessed are the co-ops that have no mortgages. But the reason the lenders are so concerned about pro rata share is that a lot of our problems of the last few years stem from the fact that in the late 1980's, as conversions were taking place in a hysterical fashion, enormous mortgages were placed on buildings that never should have been there. So it is a rational way of looking at what would make a loan viable, and formulas have been developed. But we need to take a step back and try to get a full profile of buildings. I think it is basically what we have said. We want flexibility, and you are absolutely right, the problem is the lender in the middle who is saying Fannie Mae guidelines, Freddie Mac guidelines say this, OK, you are out the door because you don't quite make it. So I don't know how we force more careful attention.

Chairman KENNEDY. Can I just ask a brief question? Let's take the example that Mr. Rappaport just described. Now, if—can in fact an outside investor come and buy that building? He would just be able to buy an individual unit. And when he bought the individual unit, how would you treat the residual value? How would you treat——

Ms. ROTHMAN. There is no problem of pro rata share.

Chairman KENNEDY. There wouldn't be a problem, because there wouldn't be any——

Mr. RAPPAPORT. Any significant underlying debt.

Ms. ROTHMAN. So it is zero percent, Charles, it is not a problem.

Mr. RAPPAPORT. He has got 1 more year to run, so he is not——

Mr. KELMAN. It is not a pro rata problem, it is another problem.

Chairman KENNEDY. It is acquiring a whole new——

Mr. RAPPAPORT. I think they dreamed up something as a formula, it has no significance in the market.

Chairman KENNEDY. OK. Carolyn's questions.

Mrs. MALONEY. This gentleman is dying to speak.

STATEMENT OF JOHN BAUMAN, REAL ESTATE DEVELOPER

Mr. BAUMAN. There is one great irony of all of this, OK. In Ms. Rothman's example, she started to explain it very well, where you have an apartment that has an underlying mortgage of—pro rata share of $20,000, and the purchase price is $60,000, the bankers are glad to lend on that. If I can wind up buying that apartment for only $40,000, making the pro rata share 50, it is a much more secure loan for the bank, OK. And yet that loan isn't made because it is a better loan for them.

If I am buying the same apartment, if I raise my price from $40,000 to $60,000, I have now got a riskier investment. Now they are willing to lend me the money where they weren't willing to lend me the money before.

Chairman KENNEDY. Can you identify yourself for the record, please?

Mr. BAUMAN. Yes, I am sorry, my name is John Bauman. I am a real estate developer, on the other side of the coin here.

The other matter that is never considered in the pro rata——

Chairman KENNEDY. Go ahead.

Mr. BAUMAN. The other matter which is never considered in the pro rata problem is the fact that there may be commercial property, and some part of the underlying mortgage needs to be attributed to the commercial part of the building. They only take the residential units. So if you have two buildings, a 200-unit building with no commercial, and 200-unit building with a large residential—a large commercial portion, no part of that mortgage is ever attributed to the commercial part of the building, which puts off an enormous amount of income.

Chairman KENNEDY. OK. I want to just say how delighted I am that the subcommittee has been able to come up and have these issues aired. I am concerned that we have partially solved the problem, and not fully solved the problem, as is the case in most issues of life, but nevertheless my sense is that this is an issue that I would like Mrs. Maloney to keep us abreast of in terms of whether or not the actual relief that has been announced finds its way down the chain to the very people that are suffering the most as a result of these inequities. And I think that if there are continuing problems, then I would like to have the subcommittee informed and kept—and we will try to do our best to work with Fannie and Freddie, and I also think with the lenders directly, in terms of their willingness to come forward.

I think, Mr. Connor, you raised a very critical issue, which is that if we announce the programs at the top end, and they simply don't have a way of getting down the food chain, we haven't really accomplished very much. So we will try to do our best to stay after it. Ultimately, a lot of this, I think, is going to fall on the shoulders of local elected officials and others to begin to advocate on behalf of the buildings that come under the scrutiny of people like Mr. Rappaport, Ms. Rothman, and others, that are really at the ground level trying to make this thing work.

So again, I want to thank all of our witnesses. I particularly want to thank Carolyn Maloney for her efforts on bringing this issue to light. She does a great job in the Congress, and we are looking forward to continuing to work with her in the years ahead.

There being no further questions on behalf of the subcommittee, I want to express my appreciation to all the witnesses who shared their views with us today. I would like to ask unanimous consent that the record be kept open for a period of 4 weeks from today so that additional views may be submitted.

Hearing no objection, so ordered.

The panel is excused and the subcommittee is in recess. Thank you.

[Whereupon, at 12:18 p.m., the hearing was adjourned.]

A P P E N D I X

September 14, 1994

CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK

COMMITTEE ON BANKING FINANCE AND URBAN AFFAIRS

COMMITTEE ON GOVERNMENT OPERATIONS

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Representative Carolyn B. Maloney

OPENING STATEMENT
Field Hearing on Credit Availability for Co-operatives and Condominiums

Subcommittee on Consumer Credit & Insurance
September 14, 1994

I'd like to begin by extending my deepest thanks and appreciation to Chairman Kennedy for scheduling this very important hearing and bringing your Subcommittee to New York City for a first hand look at the credit availability for residential co-ops and condominiums.

Today's hearing is especially timely as only 48 hours ago, Freddie Mac announced a $650 million program to help provide added liquidity to New York City's co-op housing market.

Once again, Mr. Chairman, we seem to see the remarkable coincidence of a planned Congressional hearing causing swift action on the part of those entities coming under scrutiny.

But although Freddie Mac's announcement is certainly welcome, it took months and months of intense effort by the City's elected officials to produce a program that should have been implemented by Freddie Mac since the very beginning.

There is an unfortunate perception that exists in many quarters -- from the halls of government to the boardrooms of banks -- that people who live in co-ops and condominiums are very wealthy and therefore could not possibly be experiencing the same difficulties as any other group of homeowners.

Many of those holding that view are shocked to learn that the more than 500,000 co-ops and condos in the City of New York are owned mostly by the same middle-class families who own any other kind of housing.

And the truth is that these middle-class families are suffering from lending policies that have resulted in continuing obstacles for the sale and purchase of one of the largest forms of housing in the metropolitan region.

Oddly enough, there is a divergent perception that accompanies the idea that those who live in co-ops and condos are rich, and that is that investing in co-ops and condos are a bad risk.

While I think that this is an absurd notion, I would like to point out a recent Urban Institute study that found that of all the assisted housing programs at HUD, those with the least default rates were co-operative housing.

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This study is so important and significant that I offered an amendment to the Housing reauthorization bill calling on HUD to study, and implement where possible, the recommendations to increase the amount of co-op housing.

Few would dispute that the co-op and condo markets were disproportionately affected by the recession that began with the stock market crash of 1987 and also buy the ensuing crisis in the Savings & Loan industry.

But while some of the continuing difficulties can be attributed to the general decline of the New York real estate market since 1987, much of the blame must also be laid at the feet of government entities that enact policies that treat co-ops and condos in a discriminatory manner.

Let me briefly mention two tax issues that perpetuate this double standard for co-ops and condos before returning to the issue of credit availability.

Nowhere is this double standard more evident than in New York City's own property tax structure, which places all co-ops and condos in one class and all other residences in another class.

In 1990, I released the first comparative study of the property tax system, which revealed that co-op and condo tax rates were 5.5 times as much as the tax rates for other homes of equal value.

That is not only unfair, but it also contributes to the perception that co-ops and condos should be treated differently from other forms of housing and also to the perception that the owners of co-ops and condos are richer than everyone else so they can afford to pay a higher tax rate.

There has been some positive movement on this issue of late, and I would extend my congratulations to Council Speaker Peter Vallone for trying to bring some tax equity to the property tax system.

On the Federal level, the matter of the IRS interpretation of Section 277 of the tax code has beset cooperative housing corporations for several years, at the potential cost of millions of hard-earned dollars.

Simply put, the Internal Revenue Service made a determination to tax co-ops on the interest earned on their reserve funds, as well as the money earned by residential laundry and parking facilities.

Placing additional tax burdens on homeowners was never the intent of Section 277. Indeed, this section was designed to tax the income on reserve funds of membership organizations like country clubs.

Only the bureaucrats at the IRS could decide that the basic operating and emergency funds of housing cooperatives were the same thing as the funds maintained by clubs for fancy dinners and new tennis courts.

The consequence of the IRS' decision is that many cooperative housing corporations have been hit with very large tax bills that are currently being litigated in court.

Two colleagues and good friends of mine, Charles Rangel and Charles Schumer, have introduced legislation, which I've cosponsored, to correct this IRS decision and I hope that Congress will take action on these bills soon.

However, the potentially large tax liability owed by many cooperative housing corporations creates yet another disincentive for banks to make new share loans or refinance existing underlying mortgages.

Given these local and Federal tax policies, it is not so surprising that neither Freddie Mac nor Fannie Mae have been very active in the City's multifamily market in recent years.

That, of course, seems to be changing, as indicated by Monday's announcement of a new program by Freddie Mac indicates, and programs enacted last fall by Fannie Mae.

But the fact remains that it just shouldn't take more than two years of extensive and intensive negotiations between elected leaders and Fannie and Freddie to get their interest re-kindled in the area of co-op share loans.

Freddie Mac and Fannie Mae were created by Congress specifically to make more credit available for home mortgages. There's nothing in their charter, as far as I can tell, that says credit should only be available to those homebuyers who want to live horizontally, instead of vertically.

It is a significant part of Fannie and Freddie's mandate that they work hard to develop solutions to problems besetting homeowners and homebuyers.

That philosophy is somewhat at odds with the timid approach that was manifested by both of these agencies over the past year.

I'll say it again and again: it shouldn't take the enormous pressure and effort by elected officials to convince these agencies to increase their participation.

Instead of being dragged kicking and screaming to "do the right thing", one would have hoped that Fannie and Freddie would have gone out of their way to aggressively pursue solutions to the multi-family credit crunch.

Let me be clear: I truly welcome the recent actions by Fannie and Freddie; I just deplore the difficulty it took in getting these programs implemented.

I think that today's hearing will bring some badly needed attention on this important housing market and I look forward to the testimony of all the witnesses.

Thank you again Mr. Chairman, for bringing the Subcommittee's focus to this issue.

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RUTH W. MESSINGER
BOROUGH PRESIDENT

TESTIMONY OF MANHATTAN BOROUGH PRESIDENT RUTH W. MESSINGER BEFORE THE SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE OF THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS. SEPTEMBER 14, 1994 AT 10:00 A.M., CUNY GRADUATE CENTER.

Thank you Chairman Joseph P. Kennedy, II for the opportunity to comment on an issue that is of critical importance to New York City residents--to our coop and condominium owners, to those who aspire to home ownership via this route, and to those other homeowners and renters who share neighborhood life with them. I want to especially thank my good friend and colleague Congress-women Carolyn B. Maloney who understands the importance of bringing policy and law makers home to see and hear first-hand local problems and potential solutions.

Today's hearing was designed to address the availability of credit for residential cooperatives and condominiums. The acknowledged lack of access to capital for their financing or refinancing has cast an economic pall over the wellbeing of thousands of households, hundreds of buildings and many neighborhoods. Banking practices that have discriminated against this particular form of home ownership hit New York especially hard because large apartment buildings, many of which have been converted to coops and others built new, have long distinguished New York from other cities. The density of our urban environment makes New York unique. We were the first city to have public housing and the pioneer in coop development as well.

The conversion of rental buildings to cooperative ownership began here in the 1940s, concentrated mostly in Manhattan. In the 1980s conversions took hold in Queens, Brooklyn and the Bronx, as owners sought to satisfy demands for home ownership, to unload deteriorating properties, to cash out and maximize profits or invest in more lucrative sectors of the economy, and to remove building from rent controls. Speculative conversions were widespread in the 1980s. Owners too often over-leveraged their buildings with large wraparound mortgages and loans against the unsold shares. I offer appreciation and acknowledgment to my colleague, Queens Borough President Claire Shulman. She experienced and dealt with the first wave of this crisis when several large cooperatives in her borough began hemorrhaging from sponsor default and abandonment. Coop owners and aspirants owe a

lot to Claire; her leadership on this issue has secured legislation that is easing burdens and restoring benefits to coop owners.

Today's hearing comes two days after the Federal Home Loan Mortgage Corp. (Freddie Mac), announced a $650 million pilot program to assist cooperative and condominium lending in New York City. Thanks to Claire and Congressman Chuck Schumer, Freddie Mac will now purchase co-op share loans from lenders in buildings where 51 percent of the units are pre-sold. This is a step forward and a departure from banking practices here to date. Some banks redlined coops altogether, others wouldn't take a look unless 70 percent of the units were pre-sold. In the last few years, as the bottom fell out of the real estate market, banks withdrew from this form of lending--leaving many shareholders, coop boards and future purchasers in financial distress or ruin. Now Freddie Mac will work together with nine lenders who have been designated as eligible to sell share mortgages to Freddie Mac. This pilot, combined with the Federal National Mortgage Association's (Fannie Mae) similar demonstration program begun last year, has the potential to begin to revive the cooperative housing market.

I commend Freddie Mac and Fannie Mae for launching these efforts and relaxing the underwriting criteria for coop purchase and refinancing loans. Some of the new, more responsive thresholds include: as little as 10 percent down payment; a minimum of 51 percent of the apartments pre-sold; an increase in the unit's pro rata share of the underlying mortgage to 40 percent of its value; no square footage limitations. We need a mechanism to formally track and evaluate these new initiatives to insure that strengthened and viable coops result. We should expand the list of participating lenders and establish a new coop financing practice that will truly stabilize buildings and the neighborhoods.

While many coops and condos need an infusion of affordable capital, other supports are required as well. Some laws, regulations and programs are the purview of other levels of government or the private sector. For example, I have proposed a phased property tax equalization plan that would bring equity to apartment owners and renters in New York. Additionally, I continue to advocate that the city's important rent regulations and protection system must be honored regardless of ownership, receivership or foreclose status.

On several occasions my constituents have called upon me to intervene or assist shareholders in securing the appropriate attention from lenders. These have involved a variety of coop needs--from RTC takeovers and rent regulation issues, to priority purchases for existing tenants, to refinancing of underlying mortgages and financial workout plans. I hope that hearings like this will galvanize lawmakers, communities and lenders so that there will be generic solutions to these building problems.

In the 1980s, many co-ops refinanced their mortgages in order to pay for renovations and expansions. But the stock market crashed in 1987 and the value of the average co-op declined by 34% between 1989 and 1992. This caused the ratio of the unit share of the underlying mortgage -- or the pro-rata share -- to the market value of the co-op to be above the 30% standard that Fannie Mae had established for the marketplace.

This turn of events forced a Catch-22 effect. Because the market had gone soft and the pro rata share was too high when compared to the value of the unit, banks were rejecting mortgage applications. The result was that market values decreased further and the pro-rata share ratio grew higher. This insane spiraling effect must come to an end.

I have met with Lou, Randy, Fred and others who live and work in the co-op market; with various lending institutions who either operate or would like to operate in the market and with officers of Fannie Mae. It has become clear to me that raising the standard for the pro-rata share ratio from 30% to 40 or 45% would be sufficient to increase lender participation.

The other problem that Jim Johnson of Fannie Mae and I are finding as we look to define the new pilot program for New Jersey is that many of the local banks are unfamiliar with the particulars of the co-op market. They are not used to the different appraisal systems, they don't understand how to properly determine the ratio of the pro-rata share to the unit value and they are unfamiliar with much of the industry vernacular. And because of that, they are staying away from the market altogether. Any national solution must begin with proper educational training to encourage these banks to participate.

The only banks that do lend to the co-op community in New Jersey either are associated with banks in New York or are run by people familiar with the New York co-op market. We need to demonstrate to local New Jersey banks that lending to co-op buyers is a sound investment.

The bottom line is that many of the local New Jersey banks are being supported by depositors and businesses owned by people living in these co-ops. By law, these institutions must offer loans to the communities they serve. Fred and Randy have mentioned on a number of occasions that they will boycott banks that do not make loans to prospective co-op buyers. I hope that step will not be necessary.

We need to prove the statistics that show that co-op owners have a lower rate of default on mortgages than most other types of homeowners. We need to relax the secondary loan guidelines set by Fannie Mae and Freddie Mac. We need to educate the bankers to better understand the market. And we need to encourage new banks to begin co-op loan programs.

I thank my colleagues for allowing me to present this testimony and look forward to working with them as we attempt to resolve this matter.

MANFRED OHRENSTEIN
MINORITY LEADER

THE SENATE
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TESTIMONY OF NEW YORK STATE SENATE MINORITY LEADER MANFRED OHRENSTEIN

Before House Subcommittee on Consumer Credit & Insurance CUNY Graduate Center, Manhattan

September 14, 1994

Good morning. I appreciate the opportunity to testify here today, and I would like to commend Subcommittee Chairman Joseph Kennedy, Representative Carolyn Maloney, and the other members of the House Subcommittee on Consumer Credit and Insurance for looking into these very serious issues. Adequate financing and refinancing opportunities for cooperative housing corporations, co-op shareholders, and condominium owners are vital to preserving and enhancing these important sectors of the affordable housing market.

In New York State, the expansion of affordable housing for all citizens has long been a priority. Throughout the years, the State has worked -- very often in close partnership with the New York City and Federal governments -- to expand the supply of public housing for low-income residents, to advance innovative tax incentive programs for the development of low- and moderate-income rental housing, and to offer greater opportunities for home ownership to all New Yorkers.

New York's laws governing condominium and cooperative housing, combined with a variety of programs administered by the State's housing and mortgage agencies, have contributed tremendously to the goal of expanded homeownership opportunities. As more people have come to have a stake in home ownership, particularly through the growth of condominum and cooperative housing, many

buildings have been upgraded and neighborhoods have been revitalized. These and other positive results of our affordable housing efforts are of great benefit to all of us.

That is why it is so important to ensure the viability of condominium and cooperative housing, with the latter being, I might add, a form of home ownership that is little known and understood outside of New York. This may explain, in part, why some lending institutions have been reluctant to provide loans for people who are seeking to buy into cooperatives or to approve refinancing for underlying co-op building mortgages. Lending institutions fear defaults by cooperative sponsors in buildings where the owner-occupancy rate is relatively low, and are hesitant to provide credit for shareholder loan refinancing or new purchases in instances where a building mortgage is facing the end of its term. Often, the end of the term brings with it a large final "balloon" payment, an expense that may ultimately prove unmanageable to the cooperative.

These instabilities in the co-op market, in many cases related to the real estate excesses of the 1980s, have precipitated the current credit crunch, making it difficult for cooperative housing corporations, shareholders and potential co-op buyers to obtain necessary credit. On the State level, particularly through SONYMA, New York's mortgage agency, we are taking positive action to address these issues. But we still need help from the federal mortgage agencies to ensure the viability of New York's co-op market.

Some progress has been made. In late 1993, Fannie Mae, the Federal National Mortgage Association, issued new, liberalized lending guidelines for co-ops in New York City, making it easier for potential buyers and shareholders to finance and refinance co-op loans. These guidelines, for example, enable a lender to write a loan for a building where only 51 percent of the units have been

sold to owner-occupiers; the previous requirement was at least 80 percent. Other changes provided lenders with the go-ahead to make loans in buildings with minor cash flow problems, and clarified that units temporarily rented out by co-op shareholders would continue to be counted as owner-occupied for financing purposes. While Fannie Mae's liberalized co-op lending rules are only guidelines, and continue to provide individual lenders with a great deal of discretion in approving or disapproving loans, they are still a step in the right direction.

In addition, as I am sure you are aware, the Federal Home Loan Mortgage Corporation, or Freddie Mac, announced a $650 million pilot program this week to provide new co-op financing opportunities for New Yorkers. This program, which also eases lending requirements, is a welcome shot in the arm for potential co-op buyers and shareholders seeking to refinance their loans. For example, past rules required 65 percent of a building's units to be owner-occupied to qualify for financing; this program sets a minimum requirement of 51 percent.

However, while these actions represent progress in combatting the lack of credit, it has been suggested that both Fannie Mae and Freddie Mac could be even more responsive in addressing New York's co-op financing needs and more active in providing a secondary market for co-op loans, particularly with regard to underlying building mortgages. In the long term, neither agency has been overly aggressive in reaching out to the New York co-op market, and there is concern that at least one recent court case has had a chilling effect on their loan purchasing activities.

In a June, 1994 case concerning the status of cooperators who lost their proprietary leases when their Brooklyn co-op went bankrupt, Freddie Mac, which held the mortgage on the building, sought a declaration from the court that once a building is taken out of rent regulation, through conversion to cooperative or

condominium ownership, it is permanently unregulated. However, Federal Eastern District Judge I. Leo Glasser, citing New York City's administrative code, ruled that the units be returned to rent stabilization. This decision, obviously, was received unenthusiastically by a mortgage corporation seeking to protect the value of its investment in the building, but I hope it will not prove an impediment to expanded New York involvement by Freddie Mac and Fannie Mae. Their full participation is vital to the viability of the co-op market and to the success of New York's ongoing efforts to increase home ownership opportunities.

As I indicated earlier, New York State has already taken some positive steps to address the shortage of adequate co-op financing and refinancing opportunities. For instance, the New York State Legislature enacted a law this year to enable SONYMA to provide mortgage insurance for underlying building loans in cooperatives. This new SONYMA credit enhancement, which was an important part of Governor Cuomo's legislative agenda for this year, will encourage banks to participate more aggressively in the co-op market, helping to provide assurances that their investments will be protected against loan payment defaults.

Under the program, when a co-op or its sponsor defaults, SONYMA will step in and make mortgage payments, pay off the remainder of the building mortgage, or assume responsibility for the loan until a permanent financing solution can be worked out. SONYMA is now reviewing several co-op refinancing proposals that have been presented by the Community Preservation Corporation and is expected to begin providing mortgage insurance before the end of the year. It is also important to note that SONYMA already provides loans for co-op purchasers buying their first homes through its Single-Family Homebuyers Program.

I would also like to add here that the Senate Democrats have long been committed to enacting legislation that will help to bring greater financial stability to cooperative housing ventures and to make them more credit-worthy. We have supported many initiatives similar to those advocated by Queens Borough President Claire Shulman, including measures that would require sponsors to post security and proposals designed to increase the percentage of purchasing tenants required for co-op conversion plans.

While there is still work to be done, it is clear that New York State has already taken aggressive action, through both loan and insurance programs, to address financing barriers in the co-op market. But New York State, on its own, cannot provide answers to all of the complex issues that have led up to today's credit crunch. The best and most far-reaching solutions to the liquidity problems we face will only be achieved through a solid, cooperative government and private sector partnership involving the City, State and Federal governments and the lending industry. I urge this Subcommittee to prevail upon Fannie Mae and Freddie Mac to assume an even larger role in this effort.

Thank you.

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TESTIMONY ON BEHALF OF G. OLIVER KOPPELL
ATTORNEY GENERAL OF THE STATE OF NEW YORK

before the
Subcommittee on Consumer Credit & Insurance
of the
House of Representatives Committee on Banking, Finance and Urban Affairs
One Hundred Third Congress
September 14, 1994
New York, New York

By: Gary R. Connor
Assistant Attorney General
in Charge
Real Estate Financing Bureau
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TESTIMONY ON BEHALF OF G. OLIVER KOPPELL ATTORNEY GENERAL OF THE STATE OF NEW YORK

before the
Subcommittee on Consumer Credit & Insurance
of the
House of Representatives Committee on Banking, Finance and Urban Affairs
One Hundred Third Congress
September 14, 1994
New York, New York

Good morning and thank you for the opportunity to appear before you today. My name is Gary R. Connor and I am the Assistant Attorney General in Charge of the Real Estate Financing Bureau at the New York State Attorney General's office. I am here, as you know, to talk on behalf of Attorney General G. Oliver Koppell about the serious financing problems faced by residents of cooperatives and condominiums in New York. It is high time that attention be paid to the general reluctance of lending institutions to make and refinance loans to apartment corporations and to individual shareholders and unit owners. This reluctance has created a web of problems that affects hundreds of thousands of New York residents. The situation has been with us for several years and the Attorney General has faced it in several ways: as an attorney practicing in that area; as a state legislator particularly interested in co-op and condo issues; as a president and director of a co-op's board of directors; and now as the state official responsible for the regulation of co-ops and condos in New York State. The Attorney General and I

greatly welcome your efforts to look into this matter and help solve the stalemate.

The New York Legislature has given the regulation of cooperatives and condominiums to the Attorney General. In particular, the Attorney General has the obligation of overseeing the conversion of real property into residential cooperatives and condominiums. It is the Attorney General's task both to regulate the offering of such securities and to enforce compliance with the state conversion law.[1] Our office thus reviews every offering plan for every cooperative and condominium in the State, and every amendment to those plans. This is a formidable task: in 1993 my staff reviewed 226 plans and 3,258 amendments to existing plans. Of course, this is far fewer than in the heyday of conversions. In 1986, for example, there were 1,413 offering plans and 7,886 amendments accepted by my office. And from 1980 through 1993 there have been more than 11,000 offering plans for cooperatives, condominiums and homeowners associations accepted statewide for over 800,000 units of housing.

The Attorney General's office is also actively involved in the resolution of sponsor default issues, as well as in bringing civil and criminal prosecutions of offenders. Our experience leads us to conclude that no more than 10% of the post-1980 conversions have encountered sponsor-related financial default problems, the majority of which involve the conversions of the late '80s. Although some areas of New York have a disproportionate share

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[1] This law is Article 23-A of the New York General Business Law, commonly known as the "Martin Act."

of these problems, it is important to remember that approximately 90% or more of the conversions in the State have always been economically healthy. Unfortunately, very few lenders appear to appreciate this fact.

The severe downturn in the real estate market affected lenders as well as homeowners and sponsors, of course. Bad real estate loans are seen as a major factor in the savings and loan debacle of the late '80s. Lenders which lent so casually in the '80s suffered when sponsors and other developers defaulted on construction and investment loans. What has frequently been overlooked, however, in assessing the harm done to lenders by sponsor defaults, is that the lenders bear a great deal of the responsibility for the current situation. Their promiscuous lending was a contributing factor to the widespread problem of sponsor defaults, for without the bank loans to weak cooperatives and condominiums, those entities could not have been created. There were, of course, situations in which lenders granted underlying mortgages conditioned upon a higher percentage of sales than state law required.[2] But most lenders paid little heed to what was likely to happen to the projects for which they provided mortgages. And the lenders' common practice of giving inappropriately high mortgages resulted in cooperative buildings being saddled with mortgages that they could not carry.

The lenders jumped on the bandwagon when there were big profits to be made in cooperative lending. Unfortunately, they were quick to jump off that bandwagon when the potential for easy profit was over. Many lenders

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[2] It should be noted that New York law has only minimal standards (i.e., 15% of units sold) that must be met before a rental building is converted to co-op or condo status.

ceased providing mortgages at all, or imposed such onerous criteria that a large number of creditworthy cooperatives and individuals were left in the cold. The criteria imposed -- originally that 70% or 80%, and more recently 50%[3] or 60%, of the apartments in a building must be owner-occupied, for example -- are often applied rigidly. Thus, a lender will refuse to consider refinancing an underlying mortgage in a cooperative in which the sponsor has retained 40% or 45% of the shares even where the sponsor-held units bring in rents higher than the maintenance owed to the cooperative; the sponsor has never defaulted on its obligations nor shown any sign of doing so; and the building has a substantial reserve fund. Perhaps worse yet, lenders will not give end loans to people who are excellent credit risks and who wish to purchase units held by a sponsor in buildings that are 40% or more sponsor-held.

The lenders' practices are making currently weak cooperatives worse. If institutions will not provide financing in a cooperative where 50% of the units are sold, a shareholder can not sell, except to a rare buyer able to buy with cash. This inability to sell results in the shareholder subletting, if possible, and thus increasing the percentage of non-owner occupied apartments for the next shareholder. Also, if lenders will not provide a new underlying mortgage at a reasonable rate, a cooperative is forced to obtain a new mortgage at a higher rate. This usually raises maintenance costs, making the building less attractive to buyers and placing shareholders at risk because

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[3] Fannie Mae and Freddie Mac have announced pilot programs in New York which require a pre-sale of 51% of the units to qualify for a mortgage. Both programs, however, have a number of restrictions which limit their availability.

they cannot meet expenses. Worse yet, if no refinancing is obtained for an underlying mortgage, a cooperative may be foreclosed and shareholders lose their equity while remaining obligated to pay their end loans. None of this makes sense. If lenders would provide monies at reasonable rates, weak buildings could become strong.

In fairness to the banking industry, particular banks have seen themselves as having a stake in a building or group of buildings and have been creative, flexible and invaluable in working out sponsor default situations. Whenever we can, our office works with lenders in resolving financial problems, and we invite lenders to continue to work with us. But, the industry as a whole has failed to acknowledge its responsibility in creating today's problem and to act as a partner to cooperatives and condominiums in resolving it.

In an effort to make these points to the lending institutions themselves, my office held a Lenders Seminar on April 13, 1994 at the Association of the Bar of the City of New York. The seminar was very well-attended and it has resulted in a series of follow-up discussions and meetings with representatives from banks, including the Federal Home Loan Mortgage Corporation, which are interested in considering changes to existing bank policy. This was a good start, but much more needs to be done.

Lenders need to educate themselves about what makes a co-op or individual purchaser creditworthy. They need to move from applying strict and prohibitive standards, used in the service of saying "no", to a balanced consideration of the viability of a particular co-op or potential purchaser. It

was not sensible to offer co-op loans to individuals and to sponsors as recklessly as was done in the early 1980's, but it is no more sensible to deny co-op loans as rigidly as has been done in the early 1990's.

I congratulate this Subcommittee for taking a careful look at what federally-chartered banks in New York do about granting co-op loans. Do the banks show a commitment to lending money for co-ops and condos in their neighborhoods? Are they unreasonably fearful of making "bad" real estate loans? What criteria do they impose in considering mortgage applications from apartment corporations and from individuals? What effect do criteria for lending of the Federal Home Loan Mortgage Corporation and Federal National Mortgage Association have upon the New York region? The answers to these questions lead to the conclusion that all lenders need to be more reasonable, more flexible and more civic-minded in their lending policies.

A problem separate from the difficulty of obtaining credit which also impacts negatively on co-ops and condos in New York stems from the stances recently taken by some federal or quasi-federal agencies. You know that the Resolution Trust Corporation (RTC) has taken the position that its mandate to maximize the assets of failed savings and loan institutions allows it to disregard New York's rent regulatory and conversion laws and to evict tenants from cooperative units. We have vociferously opposed that view, in negotiations and, finally, in court. The Federal District Court for the Southern District of New York upheld our position in 1992.[4] RTC appealed to the Second Circuit Court of Appeals, which issued a decision in early March 1994,

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[4] RTC v. Diamond, 801 F. Supp. 1152 (S.D.N.Y. 1992).

reversing the lower court.[5] The appellate court concluded that New York's rent-protection statutes, as well as the Martin Act guarantee to non-purchasers in non-eviction plans of the right to remain as rental tenants, are both preempted by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), RTC's enabling statute. We believe that the Court was wrong. Our office has filed a petition for a writ of certiorari with the United States Supreme Court.[6] Should the Second Circuit decision be upheld, tenants in some 2200 units held by the RTC will be at risk of eviction. In addition, tenants in some 4000[7] units held by the Federal Deposit Insurance Corporation will also be at risk. Finally, this harmful policy will affect tenants in other areas -- such as Massachusetts, California and Washington, D.C. -- where local rent regulations exist.

Most recently, the Federal Home Loan Mortgage Corporation, a federally chartered corporation created by Congress and known as "Freddie Mac", sought to curtail rental protections for shareholders after a co-op foreclosure. Freddie Mac brought a declaratory judgment action to establish that a cooperative that was foreclosed upon and reverted to rental status would not be subject to New York's rent protection laws. If that were true,

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[5] RTC v. Diamond, 18 F.3d 111 (2d Cir. 1994).

[6] We note that sixteen members of the New York delegation to Congress -- Representatives Ackerman, Boehlert, Engel, Fish, Flake, Hinchey, Lowey, Maloney, Manton, Nadler, Owens, Rangel, Schumer, Serrano, Towns and Velazquez -- submitted a friend of the court brief to the Supreme Court supporting the position the Attorney General has taken in this matter. For that, we thank you.

[7] FDIC staff have advised the Attorney General's office that at least this number of units exist in their New York portfolio.

shareholders who lost all their equity in their home upon a foreclosure would not be allowed to remain in their apartments as rent-stabilized tenants, but could be compelled to pay much higher rents or be evicted. This position, with which we strongly disagree, constitutes another attempt by a federal entity to encroach on the basic protections provided by New York laws to co-op shareholders. Our staff vigorously opposed that position, and a recent decision by the United States District Court for the Eastern District of New York upheld our view.[8]

Freddie Mac has appealed this decision to the Second Circuit Court of Appeals. We fear that if Freddie Mac ultimately prevails great harm will come to the citizens of this State. Potentially thousands of tenants will eventually be evicted. Furthermore, the incentive that now exists for lenders to negotiate workouts in troubled buildings will disappear if they believe that high rents can be obtained after a developer defaults. When that happens foreclosures will result, jeopardizing the homes of law-abiding citizens.

We mention these developments with RTC and Freddie Mac, because they represent collectively another threat to the financial well-being of New York's beleaguered co-ops and condos. We hope that as members of the Subcommittee on Consumer Credit and Insurance you will be sensitive to the need to bolster the financial viability of the co-ops and condos in which so many New Yorkers make their homes. The major focus today is, of course, the difficulties in obtaining and retaining fair credit for those co-ops and

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[8] Federal Home Loan Mortgage Corporation v. New York State Division of Housing and Community Renewal, CV 93-3717, decision of June 3, 1994 by Hon. I. Leo Glasser.

condos and the individual homeowners. We hope that you will communicate to federally-chartered banks the need to be flexible in restructuring loans and the benefits to all in creating work-outs rather than foreclosures. And we urge that banks be made aware of their role in creating many of the troubled co-ops of today and their responsibility as lenders to help resolve the problems. With a little good will and flexibility, lenders can be effective partners in fully turning around the co-op market.

Attorney General Koppell and I thank you for the opportunity to share these thoughts with you. I welcome any questions.

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By: Gary R. Connor

TESTIMONY
QUEENS BOROUGH PRESIDENT CLAIRE SHULMAN
CONGRESSIONAL HEARING ON CO-OP FINANCING
WEDNESDAY, SEPTEMBER 14, 1994 - 10:00 A.M.

MR. CHAIRMAN, CONGRESSWOMAN MALONEY, LADIES AND GENTLEMEN. I THANK CONGRESSMAN KENNEDY AND CONGRESSWOMAN MALONEY FOR SPONSORING TODAY'S HEARING AND FOR INVITING ME TO TESTIFY ON THE CRITICAL SUBJECT OF CO-OP FINANCING.

THE WAVE OF CO-OP AND CONDO CONVERSIONS WHICH SWEPT ACROSS OUR CITY IN THE 1980'S BROUGHT MANY BENEFITS, BUT ALSO LEFT IN ITS WAKE A CALAMITOUS SITUATION FOR TENS OF THOUSANDS OF OUR CITY'S RESIDENTS.

OVER THE PAST SEVERAL YEARS, MY OFFICE HAS BEEN ADDRESSING A MYRIAD OF FINANCING PROBLEMS, WHICH AT ONE TIME AFFLICTED ONE OUT OF EVERY FOUR OF THE APPROXIMATELY 80,000 UNITS CONVERTED IN QUEENS.

THROUGH THE COOPERATION OF OUR LAWMAKERS, AND MY CO-OP/CONDO TASK FORCE, WE HAVE MADE SIGNIFICANT HEADWAY IN IMPROVING THE LAWS WHICH GOVERN COOPERATIVES AND CONDOMINIUMS. WE HAVE GAINED THE PASSAGE OF FIVE IMPORTANT STATE AND LOCAL LAWS TO ADDRESS CRITICAL PROBLEMS RESULTING FROM THE CONVERSION PROCESS AND TO PROVIDE ASSISTANCE TO TROUBLED COOPERATIVES AND CONDOMINIUMS. UNFORTUNATELY, THE CONVERSION PROCESS IS STRUCTURALLY DEFICIENT AND STATE LEGISLATIVE REFORM EFFORTS HAVE SO FAR FAILED.

TWO YEARS AGO I BEGAN TO ADDRESS FINANCING ISSUES SINCE IT HAD BECOME CLEAR THAT THE CREDIT CRUNCH WAS HARMING HEALTHY COOPERATIVES. I HAVE CONVENED REGULAR MEETINGS OF CO-OP LENDERS, REGULATORS AND SECONDARY MORTGAGE MARKET REPRESENTATIVES.

IN ADDITION, LAST MARCH, CONGRESSWOMAN MALONEY AND OTHER MEMBERS OF THE NEW YORK DELEGATION CONDUCTED A FIELD HEARING IN QUEENS ON THIS ISSUE. MORE THAN SIX HOURS OF TESTIMONY ZEROED IN ON THE FINANCING PROBLEMS.

AS A RESULT OF THESE EFFORTS, I AM PLEASED TO REPORT THAT SIGNIFICANT PROGRESS HAS BEEN MADE. LAST OCTOBER, FANNIE MAE ANNOUNCED LIBERALIZED UNDERWRITING GUIDELINES FOR UNDERLYING MORTGAGES AND A 1/2 BILLION DOLLAR END LOAN PROGRAM, AND EARLIER THIS WEEK FREDDIE MAC ANNOUNCED A $650 MILLION END LOAN PROGRAM. WE EXPECT TO ANNOUNCE ADDITIONAL PROGRAMS SHORTLY.

NONETHELESS, MANY PROSPECTIVE PURCHASERS ARE STILL UNABLE TO OBTAIN FINANCING. AND TOO MANY COOPERATIVE CORPORATIONS CONTINUE TO FIND IT ALMOST IMPOSSIBLE TO REFINANCE UNDERLYING MORTGAGES.

THESE PROBLEMS PREVENT HOUSEHOLDS WITH GROWING FAMILIES OR JOB TRANSFERS FROM MOVING, AND PREVENT THOUSANDS OF FAMILIES FROM BECOMING HOMEOWNERS. THE FAILURE TO FIND SOLUTIONS THREATENS THE FABRIC OF THOSE NEIGHBORHOODS THROUGHOUT OUR GREAT CITY WHERE COOPERATIVES ARE THE PREDOMINANT FORM OF HOUSING. COOPERATIVES, WHICH SHOULD BE THE TICKET TO HOMEOWNERSHIP, HAVE BECOME AN INVESTMENT NIGHTMARE FOR MANY.

FAR TOO MANY FAMILIES HAVE SEEN FORECLOSURE NOTICES -- A FRIGHTENING EXPERIENCE WHICH HAS TYPICALLY RESULTED, NOT FROM THE ACTIONS OF THE SHAREHOLDERS, WHO ARE INNOCENT VICTIMS, BUT FROM SOME LENDERS WHICH OVER ZEALOUSLY PROVIDED LOANS TO IRRESPONSIBLE COOPERATIVE CONVERTERS IN THE 1980'S.

THE PROBLEM RESTS AT THE DOORSTEP OF LENDERS, REGULATORS AND GOVERNMENT AGENCIES, WHICH HAVE RETREATED FROM THE CO-OP FINANCING MARKET, THEREBY TURNING THEIR BACKS ON OUR HOMEOWNERS AND OUR NEIGHBORHOODS.

OVERCOMPENSATING FOR THE EXCESSES OF THE 1980'S, TOO MANY LENDERS IN THE 1990's HAVE FOUND 1,001 WAYS TO SAY NO.

WHY IS THIS THE CASE?

REGULATORS HAVE TIGHTENED RESERVE REQUIREMENTS AND MADE IT MORE PROFITABLE FOR BANKS TO USE OUR DEPOSITS TO PURCHASE GOVERNMENT SECURITIES THAN TO MAKE CO-OP AND CONDO LOANS.

THIS HAS LED, IN MANY INSTANCES, TO LENDERS HAVING WITHDRAWN FROM THE MARKET ENTIRELY. OTHERS SET GUIDELINES WHICH HAVE ABANDONED MANY NEIGHBORHOODS BY SUMMARILY REJECTING CO-OP FINANCING REQUESTS.

FOLLOWING THE LEAD OF THE SECONDARY MORTGAGE MARKET (FANNIE MAE AND FREDDIE MAC), LENDING CRITERIA HAVE BEEN ESTABLISHED, WHICH, FOR EXAMPLE, CALL FOR A MINIMUM PERCENTAGE OF SALES, USUALLY BETWEEN FIFTY AND EIGHTY PERCENT. OFTEN THESE CRITERIA BEAR LITTLE RELATIONSHIP TO THE FINANCIAL HEALTH OF THE BUILDING.

MR. CHAIRMAN, YOU HAVE ASKED ME TO MAKE SUGGESTIONS ON WHAT ROLE THE FEDERAL GOVERNMENT CAN PLAY TO RESOLVE THESE VEXING PROBLEMS.

MY RECOMMENDATIONS INCLUDE THE FOLLOWING.

FIRST, REGULATORS MUST ENSURE THAT LENDERS' REASONABLE SAFETY AND SOUNDNESS CONCERNS ARE NOT USED AS AN EXCUSE TO PREVENT LENDERS FROM MEETING LEGITIMATE COMMUNITY CREDIT NEEDS. THE COMMUNITY REINVESTMENT ACT REQUIRES LENDERS TO IDENTIFY COMMUNITY CREDIT NEEDS. YET HOW MANY LENDERS WHO INCLUDE JACKSON HEIGHTS OR PARK SLOPE, OR PELHAM PARKWAY OR EAST HARLEM IN THEIR LENDING AREA HAVE IDENTIFIED A NEED FOR CO-OP FINANCING IN THESE NEIGHBORHOODS? THE C.R.A EXISTS AND SHOULD BE UTILIZED MORE EFFECTIVELY.

SECOND, FANNIE MAE AND FREDDIE MAC HAVE MADE GREAT STRIDES IN THE BUSINESS OF BUYING CO-OP AND CONDO LOANS - THAT IS WHY THEY WERE CREATED. I URGE YOU TO JOIN ME IN ADDRESSING ADDITIONAL ISSUES SUCH AS PRO-RATA SHARE AND PRESS FOR A FURTHER REDUCTION IN THE PRE-SALE REQUIREMENT.

LENDERS TOO FREQUENTLY REJECT LOAN APPLICATIONS BY SAYING THAT AN APARTMENT'S PRO-RATA SHARE OF THE UNDERLYING MORTGAGE IS TOO HIGH WHEN COMPARED TO THE APARTMENT'S VALUE. OFTEN THIS IS A RESULT OF DEPRESSED VALUES CAUSED BY THE PREVIOUS LACK OF AVAILABLE FINANCING. IN ADDITION, SCORES OF THOUSANDS OF FAMILIES RESIDE IN BUILDINGS WHERE FEWER THAN 51% OF THE APARTMENTS HAVE BEEN SOLD, THE NEW MINIMUM PRE-SALE THRESHOLD ESTABLISHED BY THE SECONDARY MORTGAGE MARKET. THE SURVIVAL OF THESE CO-OPS - AND THE WELL BEING OF THE FAMILIES WHO LIVE IN THEM - DEPEND ON AN EXTENSION OF FINANCING TO THEM. THIS CAN ONLY OCCUR THROUGH A FURTHER LOWERING OF THE PRE-SALE REQUIREMENT BY THE SECONDARY MORTGAGE MARKET.

THIRD, OUR BANKS NEED TO WORK OUT TROUBLED FINANCES WITH APARTMENT OWNERS AND CO-OPS AT THE TABLE, NOT IN COURT. WHY WAIT UNTIL A DEFAULT TO DEAL WITH OVER-LEVERAGED CO-OPS, AND THEN ADDRESS IT THROUGH COSTLY LEGAL ACTIONS, WHICH HURT LARGELY INNOCENT APARTMENT OWNERS AND FRIGHTEN AWAY NEW INVESTORS?

IN SUM, I FIRMLY BELIEVE IN THE AMERICAN DREAM OF HOMEOWNERSHIP AND THAT THE OVERWHELMING MAJORITY OF COOPERATIVES AND CONDOMINIUMS ARE FINANCIALLY SOUND. BY TAKING ACTION TO SOLVE THE PROBLEMS CAUSED BY PAST ABUSES, WE CAN INSURE A HEALTHY FUTURE FOR APARTMENT OWNERSHIP FOR HUNDREDS OF THOUSANDS OF NEW YORKERS.

THANK YOU.

TESTIMONY
OF
H. L. VAN VARICK
DIRECTOR, MULTIFAMILY OPERATIONS
NORTHEAST REGIONAL OFFICE
FEDERAL HOME LOAN MORTGAGE CORPORATION

BEFORE THE
SUBCOMMITTEE ON CONSUMER CREDIT AND INSURANCE OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1994

Good morning Chairman Kennedy and members of the Subcommittee. My name is H.L. VanVarick. I am Director of Multifamily Operations in the Northeast Regional Office for the Federal Home Loan Mortgage Corporation, known as Freddie Mac. As a New York resident involved in local lending for more than thirty years as well as a constituent of Congresswoman Maloney, I am pleased to represent Freddie Mac before the Subcommittee today to discuss issues regarding cooperative and condominium financing.

As you know, Freddie Mac is a stockholder-owned corporation chartered by Congress in 1970 to increase the supply of money available for lenders to make residential loans. We fulfill this mission by purchasing investment-quality mortgages from primary lenders, packaging the mortgages as securities and selling the securities to investors. This flow of funds from investors to lenders for the ultimate benefit of borrowers and renters has allowed us to assist in the financing of one in six American homes.

From its creation, Freddie Mac has helped meet the housing finance needs of both New York State and New York City. Since 1970, we have provided $58.9 billion in financing by purchasing over 791,000 mortgage loans in New York State. Since 1984, we have purchased more than 3,000 multifamily mortgages totaling more than $3 billion in New York City alone. Our New York City portfolio, currently has over 2,000 multifamily loans totaling more than $1.8 billion, providing financing for over 112,000 apartment units. Of that amount, $347 million finances 257 underlying loans on co-op buildings involving over 20,000 units.

Our recently announced co-op, share loan pilot program is another indication of our strong commitment

to New York City. We are very excited about this program because co-ops are an integral part of the housing market in New York, especially the affordable housing segment. As such, our pilot program is important not only for homeownership but also for maintaining neighborhood stability throughout the city.

The pilot program involves a commitment of $650 million through June 1995 for the purchase or refinancing of co-op share loans in New York. As you know, share loans provide financing for the individual borrower's unit. This program will be a significant source of financing for an important segment of the affordable housing market.

Nine lenders have been qualified as eligible to sell share loans to Freddie Mac under the pilot program. Fixed rate loans with a maximum loan-to-value ratio of 90 percent are eligible for co-op projects with a minimum owner-occupancy rate of 51 percent. The cooperative can contain as few as 10 units. We have already purchased 2,547 share loans totaling $256 million under this program. We expect this program to provide financing for as many as 10,000 borrowers.

In your letter of invitation, you asked that we raise issues affecting co-op financing. We believe that most of the issues are ones that are simply endemic to this form of homeownership. That is, the cooperative form of ownership is a unique blend of real estate and personal property concepts, found predominantly in the northeast, especially in the New York metropolitan area. On the share loan side, most of the issues cannot be addressed without changing the very nature of the cooperative concept.

We believe that concept is sound and loans can be made as long as the underwriting reflects the unique nature of cooperative ownership. And we are convinced that our pilot program is an effective effort to address this market. As we purchase these loans, we will be monitoring their performance to make program improvements in the future.

We do find that New York's law regarding lien superiority for co-op fees raises the cost of cooperative housing and could be addressed the way most states have handled it with condominiums. That is, New

York currently allows a superior lien for delinquent maintenance payments without limit. A lender's interest can be substantially reduced in a default situation. Most states have addressed this issue regarding condominiums by adopting the recommendation of the Uniform Condominium Code that delinquent fees have a priority lien limited to the first six months.

On the co-op underlying loan side, we have a long history of experience. The underlying loan is made on the building, typically for major repairs or maintenance costs. In this area, we find that a number of nettlesome problems affect the refinance of underlying mortgages. Many of these problems involve a mix of legal, financial and economic issues that are endemic to these forms of ownership.

Examples include:

The percent of sold units in the building.

Whether the rental income from unsold units exceeds the maintenance (or vice versa) and the amount of such excess or shortfall.

The inability of the underlying lender to selectively exercise its remedies in the event of default; that is to say, the lender is unable to foreclose out the interest of a delinquent sponsor while leaving the paying share owners in place.

Subordinate Financing: the existence of wrap secondary financing in favor of the sponsor and later pledged to a third party, and the sponsor's practice of pledging unsold shares, create a number of practical problems to the refinance of the underlying mortgage.

Sponsor control of the cooperative board and/or property management can be problematic. A sponsor motivated by a desire for a quick profit can create conditions unfavorable to the other owners and the lender.

We only note that these are issues. They either do not lend themselves to simple solutions or are best

handled with appropriate underwriting standards.

However, one issue of particular concern at this time is the underwriting uncertainty due to a recent court ruling that former shareholders become rent stabilized tenants after deconversion and a proposed regulation formulating rents on deconverted apartments. The court decision and draft regulations from the Department of Housing and Community Renewal in tandem have a dramatic negative impact on the collateral value of co-op buildings in New York.

Any real estate loan must be evaluated by the lender on a "worst case" basis. That is, if the loan is not paid and the lien must be foreclosed upon, what would be the value of collateral? Under the proposed regulations, a co-op building would have far less value than that previously estimated because the rental income and thereby the net operating income would almost certainly be substantially lowered. This will decrease dramatically the loan amounts for which co-ops can qualify thereby affecting the ability of co-ops to maintain and upgrade the building. Freddie Mac is working with industry groups and local officials to find creative solutions to this situation.

I hope this information is helpful to you and welcome the opportunity to answer any questions you may have.

COUNCIL OF NEW YORK COOPERATIVES
SERVING COOPERATIVES AND CONDOMINIUMS

Testimony before The Subcommittee on Consumer Credit and Insurance of the Congressional Committee on Banking, Finance and Urban Affairs

Concerning Loan Availability for Cooperatives and Condominiums
September 14, 1994

Presented by Mary Ann Rothman, Executive Director

Good Morning Congressman Kennedy and Congresswoman Maloney, and thank you for coming to New York to talk about financing for cooperatives and condominiums. You are very much on target in convening this important hearing. Difficulty in securing loans for the purchase or refinancing of cooperative and condominium apartments is now a prime obstacle to the recovery of the New York housing market, and cooperatives are also concerned about challenges in refinancing their underlying mortgages. I am hopeful that this hearing will serve as an important step toward eliminating misconceptions and removing obstacles to co-op and condo financing and affirming the viability of cooperatives and condominiums as an affordable form of home ownership.

The Council of New York Cooperatives is a membership organization for existing cooperatives and condominiums. It was founded in 1975 and presently represents more than 1800 cooperatives and condominiums in the City of New York and surrounding counties, which are the homes of more than 165,000 families. The Council provides information and educational programs to its members, involving itself both with the day-to-day problems of operating these buildings and with trying to assure their long term viability. In this capacity, CNYC hears regularly about the problems faced in its member buildings.

Congresswoman Maloney, you have always been a good friend to cooperatives and condominiums. In the City Council, you proclaimed that, "a home is a home" as you championed our very legitimate needs for property tax fairness. In Congress, you introduced an important amendment asserting that cooperative housing presents excellent affordable home ownership opportunities; you have helped us to affirm that Section 277 of the Internal Revenue Code should not be applied to cooperatives, and you have focused on the critical question of loan availability that brings us together today.

Banks are always perfectly willing to make loans for the purchase of cooperatives or condominiums in prime buildings in the center of Manhattan. But they hesitate or refuse outright to lend in buildings in more marginal locations, or ones with low percentages of resident ownership, or in cooperatives with very high underlying mortgages or those where the underlying mortgages fall due within two years.

Despite the seriousness of these problems today, we have to acknowledge that there has already been some improvement. In the early 1990's, following the collapse of the co-op and condo market and the savings & loan debacle, we suffered through a period when many buildings had great difficulties in financing underlying mortgages AND individual loans. Lenders have begun to respond to our pleas for more flexibility on the underlying loans. Queens Borough President Claire Shulman led the crusade to bring this about, and, Congresswoman Maloney, you also took an active role : In March of 1993, you were at Queens Borough Hall, where Mrs. Shulman and Congressman Chuck Schumer convened a Banking Committee field hearing on underlying mortgages. Poignant testimony on the plight of buildings where no lenders would lend, and parallel testimony on the viability of cooperative home ownership as a force for stability helped persuade lenders to return to the New York market. On October 25, 1993, FNMA president Larry Small joined Congressman Schumer and Borough President Shulman at the gate of a handsome cooperative complex, which would be assured viability from that day forward, because of new lending guidelines announced by Fannie Mae. FNMA also pledged to invest half a billion dollars for the purchase of new share loans in New York under this program. And two days ago, FREDDIE MAC announced similar liberalization of its guidelines and pledged an investment of $650,000 in New York share loans. We are making progress.

But there are still enormous obstacles to overcome. These secondary market guidelines make loans feasible in certain buildings where 51% of the units have been sold away from the sponsor. But local lenders approach these building with extreme caution, and often impose unrealistic restrictions. Ironically, the very co-op where the Fannie Mae announcement was made is still having difficulties with share loan financing. But we refuse to renounce our optimism. As the most viable candidates prove the success of the program, we are confident that more marginal buildings will eventually receive attention from lenders. We look to this subcommittee to expedite the process, possibly through a reporting mechanism designed to firmly nudge lenders toward faster action on requests for loans in buildings that meet the secondary market guidelines.

Another obstacle to share loan lending has been the underlying mortgage. Lenders categorically refuse to consider loans for the purchase or refinancing of cooperative apartments in buildings where an apartment's pro-rata share of the underlying mortgage exceeds, say, 35% of the purchase price of the unit. This test has evolved in response to the over-leveraging which occurred in some conversions and doomed those buildings to financial distress. While we can readily agree that pro-rata share should be considered, it is properly only one factor among many. It alone should not trigger automatic exclusion of an otherwise viable building from consideration for share loans. But, if a lender does categorically impose a formula and shut out all loans that do not meet its pro-rata share calculation, then it is unthinkable for that lender to accept applications and application fees from potential borrowers, only to inform them many weeks later that their loans have been denied because of pro rata share problems. Banks must be prohibited from raising vain hopes and taking fees in this way. Is legislation necessary to require that the pro-rata share be calculated before the bank accepts an application or can the subcommittee simply offered this as a guideline?

Unfortunately, the FNMA and FREDDIE MAC guidelines do nothing for people seeking to sell their units in buildings that are 49% sold, or 38% sold, or 17% sold. These fall into two different general categories. I will address them in order of ascending difficulty.

Many buildings that are currently experiencing problem should be perfectly loan-worthy. They are well-run and well-maintained, with responsible boards and ample reserves. Their low percentage of ownership may have been the result of a large population of renters at the time of conversion whose rents were so reasonable that they chose not to purchase apartments. Even if some of these apartments have become vacant in the last three or four years, this was a time when the market was very low, and so the sponsor may have chosen to rent at market rates while presumably waiting for the recovery of the market to sell at a higher price.

The victims of this scenario are the shareholders and unit owners who did purchased apartments in such a building. They are dismayed to learn that the low percentage of ownership destroys their opportunity for financing. Unless they can find an all-cash purchaser or provide seller financing, their units can't be sold. Often they have outgrown these apartments and must live elsewhere themselves. This results in more subletting. This vicious circle perpetuates the problem rather than solving it, and the building finds it simply CANNOT pull itself up to the magic number of 51%, which would open doors to lending (and enhance the value of every apartment).

Yet, loans on these units to individual of solid financial repute should be among the soundest investments that a lender can make. Abundant data clearly shows that prices are now down from their peak by some 20% to 40%--and even lower in some cases. Yet, the same lenders who cheerfully offered 90%+ financing in the go-go market of the '80's are unwilling to consider loans today. I don't think that new legislation is needed to induce lenders not to summarily dismiss a prospective loan based solely upon ownership percentage in the building. Rather, some form of educational outreach by this Committee seems to be appropriate. The Council of New York Cooperatives would be pleased to participate in organizing such a program.

Far more difficult to deal with is the availability of loans to help revive a troubled building which may have survived a sponsor default, a workout of its underlying mortgage, or other serious problem situation. Once the workout has put these buildings back on the road to stability, their success is predicated upon the ultimate ability to sell units to maintenance-paying shareholders or unit-owners. When lenders shun these buildings, the cycle of defeat may recommence.

Fortunately, the State of New York Mortgage Association (SONYMA) has stepped in to help provide a safety net in these situations. Legislation enacted this year will enable SONYMA to provide mortgage insurance to enhance the loanworthiness of share loans in borderline buildings, and we are looking to many lenders to help by providing the loans that will turn these buildings around. Work is in progress to assure that this enhancement helps bring back from the precipice buildings that are unable to qualify for loans without this help. Any additional help that can come from this subcommittee will be most appreciated. CNYC recognizes that these are the most difficult cases, but it is important to us to protect the viability of all cooperatives and condominiums. We don't want a single one to fail.

Today's hearing calls attention to the fact that every loan is different and merits individual consideration. Excessive caution in the wake of the recent financial crisis, and excessive scrutiny by regulators has caused lenders to establish arbitrary cut-off points that disqualify many loans that really could and should be made. We need to assure that these loans are made! Legislation already on the books requires lenders to invest in their community. Perhaps the subcommittee could survey New York lenders at six month intervals, asking about volume of requests for co-op and condo loans versus loans made, about percentage of loans made in buildings that are less than 60% owner occupied, percentage of loans made in buildings within a half mile radius of the branch. The Council of New York Cooperatives would be most happy to participate in such a survey and to publish results in its newsletter.

I'd like to turn now to underlying mortgages, where a new problem looms on the horizon. When lenders consider an underlying mortgage, even an existing loan that comes up for refinancing, they evaluate the building based on the value it would have upon foreclosure, and they will approve a loan of no more than 75% of that amount. Recent case law has affirmed that, if a foreclosure should occur, a New York city cooperative would revert to rent stabilization, with the shareholders retaining the right to occupy their units. A state agency is currently determining how rents would be established on these units. Lenders claim that this will have a chilling effect on future loans. Regardless of the payment history of a borrower, regardless of the soundness of a building, lenders claim that, reevaluating properties in the light of rent stabilization, they will doubtless be rejecting many loan requests, or asking that buildings reduce the size of their loan when they refinance. The extreme unlikelihood of default on underlying mortgages makes this an absurd set of restrictions. Pressure must be brought to bear upon lenders and their regulators to apply a more realistic standard to the evaluation and limitations of their loans.

History has shown that foreclosures of underlying cooperative mortgages are extremely rare. The subcommittee should pressure lenders and regulators to develop guidelines that are realistic, rather than dealing with worst-case scenarios as if they were the general rule.

When a cooperative does experience difficulties in meeting obligations on its underlying mortgage, foreclosure is not a good answer. A workout arrangement negotiated in good faith will preserve the maximum value for the bank and preserve the homes of the shareholders in the cooperative. We urge the Subcommittee on Consumer Credit and Insurance to consider legislation requiring that workouts be negotiated in good faith.

When foreclosures do occur, the lenders hold non-performing underlying mortgages or defaulted apartments typically seek to sell them at a fraction of the face value of the loan. But, they do so by offering an entire portfolio of non-performing loans to investors who have no interest in the survival of the cooperative. To the contrary, their motives for large profit may hinge upon the successful completion of the foreclosure. This is not in the interest of the cooperative or its shareholders. We would like to see legislation that gives the affected cooperative a right of first refusal to acquire the building mortgage or the stock and proprietary lease for the units at the same terms and conditions being offered to speculators. Requiring this would have a stabilizing effect on the troubled building, and would greatly improve its chances of overcoming the problems that led to the default and of surviving as a viable cooperative.

I would be remiss if I failed to acknowledge that several lenders have courageously "been there" for New York cooperatives and condominiums through thick and thin, providing loans when others wouldn't, allowing their clients to refinance share loans which equaled or surpassed the current value of their units, and restructuring underlying mortgages so that clients could benefit from the lower interest rates. As an organization, we thank them for this support. I believe that their good will towards cooperatives and condominiums also reflects their good business judgment. I also welcome--or welcome back--lenders that are now considering providing these loans. Cooperatives and condominiums are good investments. For their owners and for the banks that finance them. I am confident that today's hearings will improve the availability of loans for cooperatives and condominiums.

THANK YOU

Statement of

Kenneth J. Bacon
Senior Vice President
Northeast Region

Fannie Mae

before the

Subcommittee on Consumer Credit and Insurance
of the
Committee on Banking, Finance and Urban Affairs
United States House of Representatives

September 14, 1994

New York City

Good morning. I am Kenneth J. Bacon, Senior Vice President in Fannie Mae's Northeastern Regional Office, and I am pleased to be here today to discuss Fannie Mae's activity in purchasing loans on co-operative apartments. We believe that in particular markets, especially New York City, this form opens home ownership to millions of low- and moderate- income Americans. Because of its mandate to serve this segment of the public, Fannie Mae is committed to participating in this the market. We welcome this opportunity to discuss our activities in co-op lending, especially the pilot program we undertook last year, working with a member of this committee, Congressman Chuck Schumer. We would also like to suggest a few areas in which amendments of law and regulation would enable us to do a better job.

Background

Fannie Mae, the Federal National Mortgage Association, is a federally chartered and stockholder-owned corporation. The largest investor in home mortgage loans in the United States, Fannie Mae purchased more than $300 billion of such loans in 1993. Because our charter emphasizes supporting housing finance for low- and moderate-income families, such borrowers account for the bulk of the families served.

The corporation was originally established in 1938 as a United States government agency to provide supplemental liquidity to the mortgage market, and was transformed into a stockholder-owned and privately managed company by legislation enacted in 1968. Fannie Mae is regulated by the Office of Federal Housing Enterprise Oversight (OFHEO), the Department of Housing and Urban Development (HUD), and the Department of the Treasury.

The corporation provides funds to the mortgage market by purchasing mortgage loans from lenders, thereby replenishing their funds for additional lending. The corporation acquires funds to purchase loans from many capital market investors that ordinarily might not invest in mortgage loans, thereby expanding the total amount of funds available for housing. Operating nationwide, the corporation helps to redistribute mortgage funds from capital-surplus to capital-short areas. Fannie Mae also issues Mortgage-Backed Securities (MBS), primarily in exchange for pools of mortgage loans from lenders, which enables the corporation to further its statutory purpose of increasing the liquidity of residential mortgage loans. The corporation receives guaranty fees for its guarantee of timely payment of principal and interest on MBS.

In effect, Fannie Mae's statutory charter is a compact between our shareholders and the United States government. As a trade-off for operating restrictions, the government has granted Fannie Mae certain benefits that help support our mission to maintain a stable flow of funds to the mortgage sector and to provide housing finance for low-, moderate-, and middle-income Americans.

Lending on Condominiums and Co-operatives

As part of its role as the nation's housing lender, Fannie Mae purchases loans secured by condominiums and co-operatives, both blanket mortgages on buildings and loans on individual units. Standards for condominiums and co-operatives differ only slightly. Because of the prevalence of co-ops in New York, this statement will concentrate on this type of loan.

The New York pilot project

Before addressing generally some of the issues involved in co-operative lending, I want to mention a pilot program we instituted in New York last fall. Over the last several years, the viability of many co-op projects in the City has been threatened by the soft market conditions, eroding property values and New York's rent control and rent stabilization laws. Working closely with Congressman Charles Schumer and Queens Borough President Claire Schulman, Fannie Mae announced an innovative pilot program limited to New York City that is designed to help maintain the supply of affordable housing units in the city and to ensure that financing remains available. This program resulted from our commitment to provide flexible financing to inner-city residents where cooperative housing is common. We selected New York City since the market acceptance of the cooperative form of homeownership is strongest there and since New York City has the greatest need for flexible share loan financing.

Under this program, Fannie Mae is purchasing co-op loans in New York that deviate substantially from our usual requirements, detailed below. To address the area that has perhaps given borrowers the greatest difficulty, Fannie Mae is reducing the presale requirement from 80% to 51%. This means that borrowers can obtain financing where as many as 49% of the units in a building are unsold or are rented, rather than the former 20% limit. The latter had been an obstacle to financing in many buildings in New York, particularly as values eroded while prices remained high enough to preclude ownership by many middle class people and rent control gave incentives to rent rather than buy. Another aspect of this program permits the developer/sponsor to own more than 10% of the units, and to have a negative cash flow within specified limits. The program is available in all five boroughs.

Fannie Mae's co-op lending

Although Fannie Mae has purchased loans secured by shares in co-operative corporations in Maryland, California, New Jersey, the District of Columbia, Florida and Virginia, the bulk of our co-op purchases are in New York. In 1993, for example, Fannie Mae purchased 3,237 single family co-op share loans in New York City for a total of $301,475,918, an average loan amount of $93,134. We expect that the total number of such loans purchased in 1994 will be higher, since the figures as of July 31, 1994 are significantly ahead of the same time in 1993. The 1994 dollar total for such loans may be lower because

the average loan is smaller, possibly due to the success of our outreach effort to attract first-time buyers.

The guidelines Fannie Mae applies to co-op share loans are in many respects similar to our guidelines for single family homes. Loans secured by shares in a co-operative corporation must represent a first lien interest, the unit must be owner-occupied, and the loan to value ratio must be 90% or less, with PMI coverage where the ratio is less than 80%, requirements that also apply to other single-family mortgage loans we purchase.

Because of the unique nature of the co-operative ownership form, there are some underwriting standards that apply only to this form of mortgage loan. Perhaps most important is the building occupancy requirement. Fannie Mae standards require that loans on individual co-op units must be in buildings where at least 80% of the units have been sold and are being occupied by the owners. We also require that no more than 10% of the shares be owned by any single entity, including the developer/sponsor. This standard reflects our concern about the effect on value of owner-occupied units where a significant portion of the building is unoccupied, or is occupied by renters. The latter concern is especially important in New York, where tenant protection laws mean that units occupied by renters may be leased at rates that are significantly below market and therefore are producing revenue at a rate that is insufficient to meet the sponsor/developer's overhead, which normally includes the mortgage on the building, real estate taxes, general upkeep and special assessments.

Another requirement peculiar to co-op loans is that the property must be located in areas with a demonstrated market acceptance of the co-operative form of ownership. Fannie Mae is concerned that our exposure to loss upon foreclosure would be greater in markets where co-operatives are unfamiliar to buyers. Obviously this is not a problem in New York.

Co-ops are also subject to a somewhat different appraisal requirement than other single-family properties. Because typically a co-operative building is subject to a blanket mortgage for which all unit owners are proportionately liable, the value of the unit for purposes of determining the loan to value ratio should be calculated less the liability for this underlying loan. In other words, if a unit is valued at $100,000 based on its size, condition, comparables, etc., but is encumbered by a *pro rata* share of the blanket mortgage of $25,000, the market value for purposes of the Fannie Mae appraisal is $75,000. Apparently this is the customary appraisal method in some areas, but others have traditionally ignored the *pro rata* share of the blanket mortgage. Fannie Mae believes that it is necessary to view this encumbrance as something that detracts from the market value of the unit.

Because Fannie Mae recognizes the necessity to maintain the maximum flexibility that is compatible with our volume of business, we frequently amend our lending guidelines in response to changes in the marketplace. Later this month, we expect to announce an amendment to our lending standards that will help lenders overcome the difficulties some have experienced in obtaining sufficient information about co-operative projects. This initiative results from a recommendation of the New York City Regional Advisory Council,

composed of representatives of the lending and appraisal industries who are experienced in the valuation of co-ops in New York.

Current Issues

Two major issues are currently affecting Fannie Mae's lending on co-operatives, and a third is looming. Changes in law should address these areas.

Rent Control and Conversion to Co-operative Ownership

On June 3, 1994, the United States District Court for the Eastern District of New York issued an opinion interpreting the New York rent control law concerning co-ops in a way that has the potential to dry up financing for buildings that convert to co-operative ownership. It also could have a negative impact on the availability of financing for individual co-operative units.

In this case, the Federal Home Loan Mortgage Corporation (Freddie Mac), a federally chartered secondary market agency virtually identical to Fannie Mae in powers, held a loan secured by an apartment building that subsequently converted to co-operatives. As an apartment building, it had been subject to New York rent control laws, but when it came under co-operative ownership the building was freed from rent controls. The board of the co-op building defaulted on the mortgage, and Freddie Mac instituted a foreclosure action that resulted in the acquisition of title to the building. In order to facilitate sale, Freddie Mac sought the court's ruling on the applicability of rent control laws and regulations to the building.

The District Court held that rent control laws apply if the building is currently within the category of buildings subject to rent control, irrespective of its status as a one-time co-operative. This decision was based on language that exempts co-operatives from rent control, but otherwise imposes rent limits on multiple dwellings with six or more units completed after February 1, 1947. The statute does not address the issue of a building that has escaped from rent control laws and then reverted to the type of ownership under which it previously had been subject to rent control.

Irrespective of the true intent of the New York law or whether the District Court interpreted it correctly, what clearly emerges from this holding is a situation where lenders will be reluctant to make loans on multi-family properties that are or might become co-operatives, or will offer such loans only under onerous terms that would make them impractical or undesirable for borrowers. We would urge the New York legislature to consider amendments to the law that would permit a building that deconverts from co-operative status not to revert to rent control.

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Tying Rents to Maintenance Fees

The other current issue of importance to Fannie Mae and other participants in co-op loans is a proposal by the New York Office of Rent Administration concerning co-op deconversions. Under this proposal, a building that deconverts would become subject to rent control, with rents set at the amount of the maintenance fee that was in effect at the time of the deconversion. While we understand that this proposal is an attempt, in part, to address the problem of setting rents in deconverted buildings that was raised by the recent court decision, we believe that it is seriously flawed. This proposal would result in below-market rents, which would have several consequences that are undesirable for all concerned.

First, we note that this proposal would subject all deconverted buildings to rent control, not just those that were covered prior to becoming co-operatives. For the reasons noted above, we feel that this will decrease the availability of financing on co-ops.

Not only would financing be harder to find, it would be for a lower amount. An immediate effect of the proposed change would be to decrease the loan amount available for new co-op blanket mortgages. Because the amount of these mortgages typically is calculated at a level that will minimize the lender's exposure to loss in the event of a default, a rule that sets rents at a level that is too low to allow for any vacancy or rental delinquencies, increased expenses or investor profit will lower the amount that lenders are willing to risk on these properties. This proposal is also troubling in the incentive it offers for a co-op's board to set fees at an unrealistically low level.

While we do not believe that any regulation to set rents in deconverted buildings is necessary, if one is adopted we would at least urge the board to reconsider the level at which rents would be controlled. The market rate at the time of deconversion seems to be the appropriate rate if one is to be set.

Possible Regulatory Impediments

On the federal level there are no significant statutory or regulatory impediments to Fannie Mae's purchase of loans secured by co-ops. However, there are indications that in drafting the final regulation dealing with Fannie Mae and Freddie Mac's affordable housing goals for 1995 and beyond, HUD may be considering focusing only on underserved areas, defined by race and income characteristics. Such action is inconsistent with the congressional purpose of the central cities goal, which was to assure availability of home finance in central cities, and is contrary to the record of Congressional intent established in two and a half years of legislative history. It would be counterproductive to define the central cities goals in a way that will discourage lending to middle-income or non-minority borrowers in urban areas, because as numerous mayors have noted, middle- and working class residents and ethnic diversity are crucial to revitalization of central city areas. In New York, central cities goals that focus on low-income and minority applicants would effectively limit the number of co-op loans Fannie Mae could purchase.

Fannie Mae is in communication with HUD to explain the reasons for taking a broader approach. If this should prove unproductive, we may need to seek the help of Congress in the form of clarifying legislation.

Conclusion

Fannie Mae is a significant participant in the co-operative market in New York and elsewhere. We expect to continue to offer strong support for this form of ownership, and we hope to work with Congress and with state and local officials to address the problems we have noted.

Federation of New York Housing Cooperatives

Devoted to the Interests of all Cooperatives and Condominiums
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September 14, 1994

OUTLINE OF TESTIMONY
BY
CHARLES RAPPAPORT, PRESIDENT
"CO-OP/CONDO CREDIT PROBLEMS"
CONGRESSIONAL SUB-COMMITTEE ON CONSUMER CREDIT & INSURANCE
NEW YORK, N.Y.

1. NATURE OF THE PROBLEM
   A) SHARE LOANS
   B) UNDERLYING MORTGAGES

2. CONSEQUENCES
   A- CASH SALES OR SELLER TAKES PAPER
   B- HUGE ASSESSMENTS / DEFAULT BY SHAREHOLDERS TO CO-OP AND LENDER / DETERIORATION OF INFRASTRUCTURE / CODE VIOLATIONS / REDUCTION IN SERVICES / REDUCTION IN RENTS PAID BY PROTECTED NON-PURCHASING TENANTS / ULTIMATE LOSS OF EQUITY, OWNERSHIP & CREDIT / TARNISHES THE IMAGE OF SOLVENT CO-OPS.

3. CAUSES
   INFLATED CONVERSION PRICES / EXCESSIVE DEBT / REGULATED RENTS FOR NON-PURCHASING TENANTS / SPONSOR CONTROL OF BOARD / 1986 TAX REFORM ACT (DEDUCTION OF PASSIVE LOSSES) / NON-CO-OP CO-OPS (15% NON-EVICT PLANS) / UNDER FINANCED SPONSORS / LOAN UNDERWRITERS REFUSING LOANS WHEN CO-OP DOES NOT FIT A PRECISE PATTERN / TOO MUCH PUBLICITY ABOUT THE FEW DEFAULT PROBLEMS AND NOTHING ABOUT THE MANY SUCCESSES / GREED.

4. SOLUTIONS
   REVERSE NEGATIVE IMAGE OF CO-OPS BEING POOR INVESTMENTS / INVIGORATE NATIONAL HOUSING ACT SECTIONS 213 & 203(N) / PHASE OUT REGULATED RENTS IN CO-OPS / BETTER EDUCATE UNDERWRITERS ABOUT CO-OPS / PERMIT THE RIGHT OF PRIVATE ACTION UNDER THE SECURITIES LAWS / ADEQUATE RESERVES (BONDED?) / JUDGE THE CO-OP ON ITS OWN MERITS NOT AGAINST A BOILER PLATE.

Federation of Section 213's, inc.
MEMBER - National Association of Housing Cooperatives

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